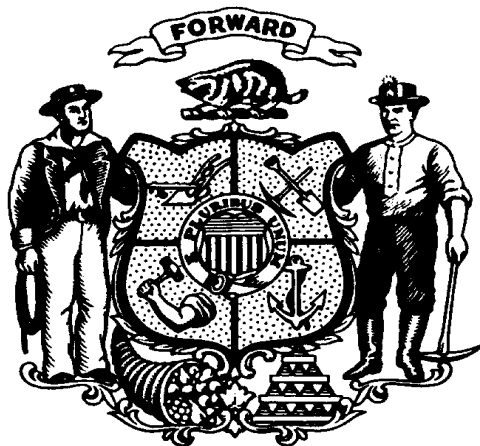


# Wisconsin Administrative Register

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## Table of contents

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**Emergency rules now in effect.****Pages 4 to 11**

Agriculture, Trade and Consumer Protection:

Rules relating to importing certain animals from a USDA-designated “non-modified accredited” state.

Rules adopted relating to reimbursement of Johne’s disease testing costs.

Rules relating to pathogen-tests on ready-to-eat dairy products.

Commerce:

Flammable and Combustible Liquids, Ch. Comm 10

Rules relating to effective date of required upgrades to above ground bulk tanks.

Corrections:

Rules relating to sexually explicit material at adult correctional institutions.

Employment Relations Commission:

Rules relating to the calculation of a qualified economic offer.

Financial Institutions – Securities:

Rules relating to the investment adviser registration depository.

Health &amp; Family Services:

Health, Chs. HFS 110—

Rules relating to certification for removal of lead-based paint hazards.

Natural Resources:

Fish, Game, etc., Chs. NR 1—

Rules relating to the stewardship program.

Rules relating to cost sharing program to suppress gypsy moths.

Rules adopted relating to speed limits for snowmobiles.

Environmental Protection – Investigation and Remediation, Chs. NR 700—

Rules adopted relating to environmental insurance requirements.

Public Service Commission:

Rules relating to handling of confidential information.

Rules relating to cost of fuel.

Rules adopted creating **ch. PSC 118**, relating to the use of renewable resource credits. **[First Appearance]**

Tobacco Control Board:

Rules relating to the administration and awarding of grants for tobacco control and establishing criteria for recipients of the grants.

**Scope statements.****Pages 12 to 14**

Health and Family Services:

Licensing of ambulance service providers and emergency medical technicians–basic IV.

Creating a new regulatory category for large family child care centers.

Natural Resources:

Clarify the definition of “indirect source” in chs. NR 438 and 484.

Regulation and Licensing:

Revising regulation of licensed and certified real estate appraisers.

Rustic Roads:

Revising qualifications for rustic road designation.

Veterinary Examining Board:	Modifying of the definition of “unprofessional conduct” of the practice of veterinary medicine.
<b>Submittal of rules to legislative council clearinghouse.</b>	<b>Page 15 to 16</b>
Financial Institutions:	Chs. DFI–SB 16 and DFI–SL 16, relating to investments in development companies.
Insurance:	Ins 17, relating to annual patients compensation fund and mediation fund fees.
Natural Resources:	NR 1.212 and 1.213, relating to private forestry priorities for assistance.
Public Instruction:	PI 35, relating to building usage code under the Milwaukee Parental Choice Program.
Transportation:	Trans 276, relating to allowing the operation of double bottoms and certain other vehicles on specified highways.
Workforce Development	DWD 128, relating to the unemployment insurance requirement of ability to work and availability for work.
<b>Rule–making notices.</b>	<b>Pages 17 to 28</b>
Financial Institutions, (Saving Banks):	Hearing to consider s. DFI–SB 16.03 (7), allowing savings banks to invest in small business investment companies located in this state.
Financial Institutions, (Savings & Loan):	Hearing to consider s. DFI–SL 16.05 allowing savings banks to invest in small business investment companies located in this state.
Hearing and Speech:	Hearing relating to the licensure and regulation of speech–language pathologists, audiologists, temporary licensees and supervision of unlicensed individuals.
Hearings and Appeals:	Hearing to consider the revision of rules relating to the revocation of extended supervision of persons serving a bifurcated sentence.
Insurance:	Hearing to consider changes to ch. Ins 17, relating to annual patients compensation fund fees and mediation fund fees for the fiscal year beginning July 1, 2001.
Medical Examining Board:	Hearing on proposed rules relating to prescribing or dispensing schedule II amphetamines or schedule II anorectics. Hearing to consider an amendment to s. Med 1.06 (3) (b), relating to the United States Medical Licensing Examination (USMLE).
Natural Resources:	<u>Fish, Game, etc., chs. NR 1—</u> Hearing to consider revisions to ch. NR 8, relating to the issuance of DNR licenses and approvals. Hearings to consider revisions to ch. NR 25 relating to yellow perch fishing in Green Bay. Hearing to consider revisions to s. NR 46.30, relating to administration of the Forest Crop Law and the Managed Forest Law.
Public Instruction:	Hearing to consider a revision to ch. PI 35, relating to a building usage charge under the Milwaukee Parental Choice Program.
Social Workers, Marriage and Family Therapists and Professional Counselors:	Hearing to consider an revisions relating to conforming existing rules to present practices and to other rules. Hearing to consider revisions to s. SFC 11, relating to professional counselor training certificates.

Transportation:	Hearing to consider the amendment of ch. Trans 276, relating to allowing the operation of double bottoms and certain other vehicles on certain specified highways.
Workforce Development:	<u>Unemployment Compensation, Chs. DWD 100–150</u> Hearings to consider amendments to DWD 128, relating to the unemployment insurance requirement of ability to work and availability for work.
<b>Submission of proposed rules to the legislature.</b>	<b>Page 29</b>
Agriculture, Trade and Consumer Protection:	(CR 00–149) – Ch. ATCP 74 (CR 00–183) – Ch. ATCP 97
Natural Resources:	(CR 00–136) – Ch. NR 333 (CR 00–177) – Ch. NR 47 (CR 00–178) – Ch. NR 25
Pharmacy Examining Board:	(CR 00–165) – Ch. Phar 7
<b>Rule orders filed with the revisor of statutes bureau</b>	<b>Page 30</b>
Commerce:	(CR 00–115) – Ch. Comm 8 (CR 00–126) – Ch. Comm 5
Elections Board:	(CR 99–150) – Ch. ElBd 1
Pharmacy Internship Board:	(CR 99–159) – Ch. Ph–Int 1
Transportation:	(CR 01–001) – Ch. Trans 131
Veterinary Examining Board:	(CR 00–144) – Ch. VE 3
<b>Rules published with this register and final regulatory flexibility analysis.</b>	<b>Pages 31 to 33</b>
Agriculture, Trade and Consumer Protection	(CR 00–119) – Ch. ATCP 30 (CR 00–145) – Ch. ATCP 11
Financial Institutions–Banking:	(CR 00–166) – S. DFI–Bk 8.04
Health and Family Services:	(CR 00–134) – Ch. HFS 97 (CR 00–150) – Ch. HFS 79 (CR 00–151) – Ch. HFS 133
Pharmacy Examining Board:	(CR 00–48) – S. Phar 7.015 (CR 00–156) – S. Phar 7.01 (3)
Public Instruction:	(CR 00–83) – Ch. PI 14.03
Transportation:	(CR 00–152) – Ch. Trans 201
Workforce Development:	(CR 00–108) – Ch. DWD 42
<b>Sections affected by rule revisions and corrections.</b>	<b>Pages 34 to 35</b>
<b>Sections affected by revisor’s corrections not published.</b>	<b>Pages 36 to 45</b>
<b>Executive orders.</b>	<b>Page 46</b>
Executive Order No. 2	Relating to a proclamation that the US and Wisconsin state flags be flown at half-staff for Specialist Jason D. Wildfong of the US Army who lost his life in a training accident in Kuwait.
<b>Public notices.</b>	<b>Page 47</b>
Health and Family Services	Medical reimbursement of nursing homes.

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## Emergency rules now in effect

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*Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.*

*Emergency rules are published in the official state newspaper, which is currently the Wisconsin State Journal. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.*

*Extension of the effective period of an emergency rule is granted at the discretion of the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.*

*Notice of all emergency rules which are in effect must be printed in the Wisconsin Administrative Register. This notice will contain a brief description of the emergency rule, the agency finding of emergency, date of publication, the effective and expiration dates, any extension of the effective period of the emergency rule and information regarding public hearings on the emergency rule.*

*Copies of emergency rule orders can be obtained from the promulgating agency. The text of current emergency rules can be viewed at [www.legis.state.wi.us/rsb/code](http://www.legis.state.wi.us/rsb/code).*

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### Agriculture, Trade & Consumer Protection – (3)

1. Rules adopted creating **ch. ATCP 16**, relating to importing bovine animals, goats or cervids from a state designated by USDA as a tuberculosis “non-modified accredited” state.

#### Finding of emergency

(1) Bovine tuberculosis is a contagious, infectious and communicable disease caused by *Mycobacterium bovis* (*M. bovis*). It affects cattle, bison, deer, elk, goats and other species, including humans. Bovine tuberculosis in infected animals and humans manifests itself in lesions of the lung, bone, and other body parts. Bovine tuberculosis causes weight loss and general debilitation, and can be fatal.

(2) Wisconsin is currently classified by the United States Department of Agriculture (USDA) as “accredited-free” for tuberculosis.

(3) The USDA recently reclassified Michigan from “accredited-free” to “non-modified accredited,” reflecting a higher risk of bovine tuberculosis.

(4) A significant number of bovine animals, goats and cervids are imported to Wisconsin from Michigan each year.

(5) The last known case of bovine tuberculosis in cattle in Wisconsin was confirmed in an animal imported from Michigan.

(6) If bovine tuberculosis becomes established in Wisconsin, it will pose a significant threat to the health of domestic animals and humans in this state.

(7) An emergency rule is needed to protect the public peace, health, safety and welfare. This emergency rule will help to control a serious disease in cattle, goats and cervids and will help protect the marketability of Wisconsin-raised animals.

**Publication Date:** August 11, 2000  
**Effective Date:** August 11, 2000  
**Expiration Date:** January 8, 2001  
**Hearing Date:** September 19, 2000  
**Extension Through:** May 7, 2001

2. Rules adopted creating **s. ATCP 10.21 (10) (c) and (15)** relating to reimbursement of John’s disease testing costs.

#### Finding of emergency

The state of Wisconsin department of agriculture, trade and consumer protection (“department”) finds that an emergency exists and that an emergency rule is necessary to protect public health, safety and welfare. The facts constituting the emergency are as follows:

1. 1999 Wisconsin Act 9 was published on October 28, 1999. It appropriates \$100,000 for financial assistance to owners of livestock herds for conducting testing for John’s disease (paratuberculosis) for FY 2000–01. It requires the department to provide the financial assistance.

2. 1999 Wisconsin Act 9 requires the department to promulgate rules for implementing the financial assistance program.

3. Permanent rules establishing the program will not take effect before June 1, 2001. This emergency rule establishes an interim procedure which will allow owners of livestock herds to apply for grants under this program. Without this rule, no person would be able to apply for a grant in FY 2000–01 until at least June 1, 2001, and the department would have insufficient time to review and process the grant requests before the end of the fiscal year.

**Publication Date:** January 1, 2001  
**Effective Date:** January 1, 2001  
**Expiration Date:** May 31, 2001  
**Hearing Date:** February 13, 2002

3. Rules adopted revising **ch. ATCP 80**, relating to pathogen-tests on ready-to-eat dairy products.

#### Finding of emergency

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) finds that an emergency exists and that an emergency rule is necessary to protect public health, safety and welfare. The facts constituting the emergency are as follows:

(1) DATCP licenses and inspects dairy plants under s. 97.20, Stats. Current DATCP rules, under s. ATCP 80.56(4), Wis. Adm. Code, require dairy plant operators to report to DATCP the results of any microbiological test that confirms the presence of a pathogenic organism in a pasteurized or ready-to-eat dairy product.

(2) There has been a nationwide increase in food borne disease outbreaks associated with food and dairy products. Such outbreaks can occur when ready-to-eat foods enter food distribution channels without being tested for pathogenic bacteria.

(3) There is no national or state law requiring dairy plant operators to test ready-to-eat dairy products for pathogens prior to sale or distribution. Dairy plant operators have a natural incentive to test, in order to avoid liability and meet

their customers' product safety demands. But the current test reporting requirement under s. ATPC 80.56(4) discourages pathogen testing, because test reports become public records that may be open to public inspection even if the affected products are withheld from distribution.

(4) There is an urgent need to repeal this counterproductive reporting requirement, and to create alternative rules that will encourage pathogen testing and provide stronger public health protection. This emergency rule will encourage more pathogen testing, and provide stronger public health protection, pending the adoption of "permanent" rule changes.

**Publication Date:** March 2, 2001  
**Effective Date:** March 2, 2001  
**Expiration Date:** July 30, 2001

### Commerce

#### (Flammable and Combustible Liquids – Ch. Comm 10)

Rules adopted revising s. Comm 10.345, relating to the effective date of required upgrades to aboveground bulk tanks that were in existence on May 1, 1991.

#### Finding of emergency

The Department of Commerce finds that an emergency exists and that the adoption of a rule is necessary for the immediate preservation of public health, safety and welfare. The facts constituting the emergency are as follows:

Wisconsin Administrative Code ch. Comm 10, Flammable and Combustible Liquids Code, became effective on 5/1/91. Section Comm 10.345 (2) contains requirements for bulk tanks in existence on that date to be provided with specific containment or leak detection upgrades within 10 years of that date. Some concerns have been expressed on the impact that compliance date could have on heating oil supplies and prices this winter. Construction requirements could result in a substantial number of tanks storing heating oil to be closed during the winter heating season in preparation for the required upgrades.

Based on these concerns, the department has agreed to extend the compliance deadline for 3 months until 8/1/01 if approvable tank system upgrade plans have been submitted to the department by 2/1/01.

**Publication Date:** January 6, 2001  
**Effective Date:** January 6, 2001  
**Expiration Date:** June 4, 2001  
**Hearing Date:** February 27, 2001

### Corrections

Rules adopted revising ch. DOC 309, relating to sexually explicit material at adult correctional institutions.

#### Finding of emergency

The Department of Corrections finds that an emergency exists and that rules are necessary for preservation of the public welfare. A statement of the facts constituting the emergency is: Effective December 1, 1998, the Department implemented rules restricting inmates' access to sexually explicit material. These rules were challenged in federal court in a class action suit brought by several inmates (*Aiello v. Litscher*, Case No. 98-C-791-C, Western District of Wisconsin). The defendants filed a motion for summary judgment, but it was denied by the court in language that suggested the rules were unconstitutional in their present

form based on a number of federal appellate court decisions that were reported after the rules were implemented.

In light of these developments, the parties negotiated a settlement which includes an immediate revision of the present rules to conform to the latest decisional law regarding the extent to which inmates' access to sexually explicit material can be restricted for legitimate penological objectives. Adoption of the revised rules no later than February 23, 2001, is necessary to avoid a lapse of the settlement agreement and lengthy trial with the attendant possibility of having to pay a considerable amount in attorneys' fees.

This order:

- Revises the present rules restricting inmates' access to sexually explicit material by prohibiting access to published material that depicts nudity on a routine or regular basis or promotes itself based on nudity in the case of individual one-time issues.

- Revises the present rules by prohibiting access to written material when it meets the legal definition of obscenity.

**Publication Date:** February 23, 2001  
**Effective Date:** February 23, 2001  
**Expiration Date:** July 23, 2001

### Employment Relations Commission

Rules were adopted amending ch. ERC 33, Appendices A, B and C relating to the calculation of a qualified economic offer in collective bargaining with professional school district employees.

#### Finding of emergency

As required by s. 227.24 (1), Stats., we find that it is necessary to promulgate the amendment to ch. ERC 33, Appendices A, B, and C as an emergency rule to preserve the public peace, health, safety and welfare. Absent promulgation of this emergency rule, the timely and peaceful resolution of collective bargaining disputes in Wisconsin will be endangered.

The amendment of ch. ERC 33, Appendices A, B and C is required by 1999 Wisconsin Act 9's amendment of the statutory definition of a qualified economic offer in s. 111.70 (1) (nc) 1. c., Stats., and the ruling of the Wisconsin Court of Appeals in *Racine Education Ass'n v. WERC*, 238, Wis.2d 33 (2000). The amended statutory definition of qualified economic offer first applies to school district professional employee bargaining agreements covering the period of July 1, 2001 through June 30, 2003.

As amended, ch. ERC 33, Appendices A, B and C allow a school district to accurately calculate the level of salary increase, if any, which the district must offer to the labor organization representing the district's professional employees as part of a qualified economic offer. As amended, ch. ERC 33, Appendices A, B and C implement (1) the statutory requirement that salary increases due to a promotion or the attainment of increased professional qualifications are not part of a qualified economic offer; and (2) the ruling of the Court in *Racine Education Ass'n v. WERC* that a qualified economic offer cannot exceed a 3.8% increase in salary and fringe benefit costs.

**Publication Date:** January 22, 2001  
**Effective Date:** January 22, 2001  
**Expiration Date:** June 20, 2001

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## Financial Institutions – Securities

Rules adopted revising **ch. DFI–Sec 5**, relating to adopting for use in Wisconsin the Investment Adviser Registration Depository.

### Finding of emergency

The Division of Securities of the Department of Financial Institutions for the State of Wisconsin finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency follows:

The U.S. Securities and Exchange Commission (“SEC”), in conjunction with the North American Securities Administrators Association (“NASAA”), an organization comprised of the securities administrators of all 50 states, including Wisconsin, has developed an electronic filing system for licensure of investment advisers to replace the paper filing system which heretofore has been used in all states. The system, the Investment Adviser Registration Depository (IARD), will permit investment advisers to satisfy their initial and renewal filing obligations to obtain licensure under the federal and state securities laws with a single electronic filing made over the Internet, instead of having to make separate paper filings with the SEC and with each state in which the investment adviser seeks to do business.

After several years in development and a pilot phase in the fall of 2000 that the Division participated in, the commencement date for states and the SEC to accept filings under the IARD has been set for January 1, 2001. Consequently, NASAA member states, including Wisconsin, need to take the necessary rule-making or other regulatory action by January 1, 2001 to enable investment advisers to make their licensing filings electronically. The Emergency Rules make the necessary changes to the Division’s investment adviser license filing provisions that are immediately needed to adopt the IARD for use in Wisconsin by investment advisers.

The IARD will be operated by NASD Regulation, Inc., a self-regulatory organization that for 20 years has operated an equivalent electronic filing system (the Central Registration Depository or “CRD”) for federal and state licensure of securities broker-dealers and their sales agents. As with the CRD, the IARD will provide the advantages of: (1) elimination of paper filings; (2) a single filing will satisfy federal and state filing requirements; and (3) automatic payment of state licensing fees to the states where the investment adviser does business. Additionally and importantly, the IARD will provide the investing public with immediate, real-time access to information about investment advisers and their representatives.

Congress in its passage of the National Securities Markets Improvement Act in 1996 provided for the development of this electronic filing system for investment advisers, and the SEC has adopted rules mandating such. The SEC and the states have been working together to develop both the necessary changes to the filing form (Form ADV), and to the filing procedures to achieve uniformity in the filing processes and procedures. Additionally, to achieve uniformity among the states in the adoption of rules implementing the IARD, a NASAA Working Group has developed Model Rules (with commentary) to coordinate with the SEC requirements. The Wisconsin Emergency Rules adopted herein follow the NASAA Model Rules.

The Emergency Rules provide for: (1) a revised Licensing Procedure section in s. DFI–Sec 5.01 (1) and (2); (2) temporary and permanent hardship exemption provisions in

s. DFI–Sec 5.01 (11); (3) a revised brochure rule in s. DFI–Sec 5.05(8); (4) revised filing periods and license expiration dates for licenses of investment advisers and investment adviser representatives, as well as for license withdrawals in ss. DFI–Sec 5.07 and 5.08; (5) a revised procedure for filings by federal covered advisers in s. DFI–Sec 5.11; and (6) a specific section in s. DFI–Sec 5.12 dealing with transition filings. Separate from these Emergency Rules, the Division will be issuing General Orders to further implement timing for various categories of filers, and which will provide partial fee rebates for 2001 for the smaller, state-only licensed advisers to help defray the initial one-time fee (of \$150) they must pay for their initial participation in the IARD.

**Publication Date:** December 29, 2000

**Effective Date:** January 1, 2001

**Expiration Date:** May 31, 2001

**Hearing Date:** April 18, 2001

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## Health & Family Services

(Health, Chs. HFS 110–)

Rules adopted revising **ch. HFS 163**, relating to certification for the identification, removal and reduction of lead-based paint hazards.

### Finding of emergency

The Department of Health and Family Services finds that an emergency exists and that the rules are necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

### Summary

September 2000 regulations issued by the U.S. Department of Housing and Urban Development (HUD) assume states’ commencing lead abatement activities compliant with the federal regulations beginning March 15, 2001. The Department estimates that about 5,000 structures in the state require lead abatement activities. About 300 persons need to be trained to conduct lead abatement activities on these 5,000 structures. Without DHFS issuance of revised training program requirements, Wisconsin’s lead training programs will not alter their courses to HUD standards or receive state accreditation in time for sufficient personnel to be trained by the time high demands for lead abatement commences. To sanction ill-trained lead abatement personnel by March 15, 2001, the Department would needlessly endanger the health of both untrained lead abatement personnel and the public whose residences are affected.

### Lead Abatement Activities

Residences built before 1978 have a high likelihood of containing lead-based paint. When lead-based paint is in poor condition or when it is disturbed through activities such as sanding or scraping, the paint can break down into chips and dust that become a potential source of lead poisoning for occupants. Wisconsin has nearly 500,000 rental units and 1 million owner-occupied units built before 1978 and presumed to contain lead-based paint.

Exposure to lead in paint, dust or soil has both short-term and long-term adverse health effects on children, causing learning disabilities, decreased growth, hyperactivity, impaired hearing, brain damage and even death. When not fatal, these effects on the body last a lifetime. Of 63,400 Wisconsin children under the age of 6 screened for lead poisoning in 1999, 3,744 were identified as having lead poisoning. However, the number of children affected by lead poisoning is probably much greater, since the 63,400 screened represented only 16% of the state’s children under the age of

6. Many of these children would not become lead poisoned if pre-1978 dwellings did not have deteriorated paint or lead-based paint on friction or impact surfaces and if lead-safe techniques were used when disturbing lead-based paint.

Lead poisoning can also affect older children and adults. In 1999, a 40-year old man employed to remove paint from windows of a rental dwelling was severely lead poisoned. He was hospitalized with complaints of headaches and joint pain. He underwent multiple sessions of chelation therapy to remove some of the lead from his blood, but still suffered serious neurological damage, which affected his speech and balance. This man's lead poisoning could have been avoided if he had been trained to use lead-safe techniques and personal protection equipment.

#### **Existing Wisconsin Law**

Chapter 254, Stats., provides for a comprehensive lead hazard reduction program, including lead exposure screening, medical case management and reporting requirements, and the development of lead training accreditation and certification programs. Under the authority of Chapter 254, Stats., the Department promulgated Chapter HFS 163, Wis. Adm. Code, in 1988 to provide rules for the certification of individuals performing lead hazard reduction and for the accreditation of the courses that prepare individuals for certification. These rules have been revised over time to meet requirements of the U.S. Environmental Protection Agency (EPA).

Wisconsin met federal standards for a state-administered lead training accreditation and certification program and received EPA authorization effective January 27, 1999. The Department's Asbestos and Lead Section of the Bureau of Occupational Health administers and enforces lead-based paint training, certification and work practice provisions of Chapter HFS 163, Wis. Adm. Code. The Section operates on a combination of program revenue and lead program development grants from the EPA.

Under Chapter HFS 163, Wis. Adm. Code, a person offering, providing or supervising lead-based paint activities for which certification is required must be certified as a lead company and may only employ or contract with appropriately certified individuals to perform these activities. An individual may apply for certification in the following disciplines: lead (Pb) worker, supervisor, inspector, risk assessor and project designer. For initial certification, the individual must be 18 years of age or older, must meet applicable education and experience qualifications, must successfully complete certification training requirements and, to be certified as a lead (Pb) inspector, risk assessor or supervisor, must pass a certification examination. All individuals must have completed worker safety training required by the U.S. Occupational Health and Safety Administration for lead in construction. In addition, a lead (Pb) worker, supervisor, or project designer must complete a 16-hour lead (Pb) worker course, a lead (Pb) supervisor or project designer also must complete a 16-hour lead (Pb) supervisor course, and a lead (Pb) project designer must complete an 8-hour lead (Pb) project designer course. A lead (Pb) inspector or risk assessor must complete a 24-hour lead (Pb) inspector course and a lead (Pb) risk assessor must also complete a 16-hour lead (Pb) risk assessor course.

#### **New Federal Regulations**

The U.S. Department of Housing and Urban Development (HUD) revised 24 CFR Part 35 effective September 15, 2000. The regulations require most properties owned by the federal government or receiving federal assistance to conduct

specified activities to make the property lead-safe. Specifically, these regulations affect property owners receiving federal rehabilitation funds and landlords whose tenants receive federal rental assistance. To meet HUD's lead-safe standards, most affected properties must have a risk assessment completed and must use certified persons to reduce or eliminate the lead-based paint hazards identified in the risk assessment report. Property owners must also use trained people to perform maintenance or renovation activities and must have clearance conducted after completing activities that disturb lead-based paint. Clearance is a visual inspection and dust-lead sampling to verify that lead-based paint hazards are not left behind. The HUD regulations also establish a new, research-based standard for clearance that is more protective than HUD's previously recommended standard.

The EPA has issued a memorandum urging States to implement a lead sampling technician discipline for which a 1-day training course would be required. Addition of this discipline would help to meet the increased demand for clearance under both the HUD regulations and renovation and remodeling regulations being considered by EPA.

The EPA is preparing to promulgate lead renovation and remodeling regulations under 40 CFR Part 745. Under these training and certification regulations for renovators, any person who disturbs paint in a pre-1978 dwelling, other than a homeowner performing activities in an owner-occupied dwelling, will have to complete lead-safe training. EPA is also considering requiring clearance after any activity that disturbs paint in a pre-1978 dwelling, except when work on owner-occupied property was done by the property owner.

#### **New Wisconsin Law**

1999 Wisconsin Act 113 requires the Department to establish a process for issuing certificates of lead-free or lead-safe status and registering the properties for which certificates are issued. If a dwelling unit has a valid certificate of lead-free or lead-safe status when a person who resides in or visits the unit is lead poisoned, the property owner, and his or her agents and employees are generally immune from civil and criminal liability for their acts or omissions related to the lead poisoning or lead exposure. Act 113 also requires the Department to establish the requirements for a training course of up to 16 hours that property owners, their agents and employees may complete in order to receive certification. The Department must also specify the scope of the lead investigation and lead hazard reduction activities that may be performed following certification. Act 113 specifies that administrative rules to implement Act 113 must be submitted to the Legislative Council Rules Clearinghouse by December 1, 2000. The rules providing the standards for lead-free and lead-safe property, and the procedures for issuing certificates of lead-free status and lead-safe status, are being promulgated separately and are not expected to be published for several months.

#### **Result of Changing Federal and State Requirements**

New HUD regulations create an urgent need for appropriately trained and certified workers to conduct activities that reduce or identify lead-based paint hazards. Due to a lack of trained and certified individuals to perform the activities required by the HUD regulations, housing agencies in Wisconsin have been forced to ask HUD for a 6-month extension before beginning enforcement of the regulations. To be granted the extension, the agencies must provide a plan for increasing the number of certified persons to meet the demand by March 15, 2001. If HUD does not grant an extension, millions of dollars in federal funding for rehabilitation and lead hazard reduction may be lost.

In addition to the demand for certified persons generated by the HUD regulations, Act 113 is generating its own demand for certified persons. Many property owners want to begin reducing lead-based paint hazards on their properties in order to meet the standards for lead-free or lead-safe property when the standards take effect. Although property owners and their employees may be certified now under Chapter HFS 163, Wis. Adm. Code, some property owners feel 5 days of training is too extensive for the work they will be performing. Act 113 requires the Department to establish the requirements for a training course of up to 16 hours that property owners, their agents and employees may complete in order to receive certification. This emergency rule meets the requirement of Act 113 by providing for certification as a lead (Pb) low-risk supervisor to independently perform limited lead hazard reduction activities after only 2 days of training.

### Department Response

The Department is gravely concerned that a lack of properly trained and certified individuals to meet the increased demand may lead to an increase in lead poisoning due to work being performed by untrained individuals. The new disciplines in this emergency order will help meet the demand for certified individuals because the rules reduce the training hours required for certification by targeting training to specific activities. With more individuals becoming certified, housing authorities and property owners will be able to comply with HUD regulations and property owners will be able to reduce lead-based paint hazards in preparation for the implementation of Act 113 lead-free and lead-safe property standards.

In promulgating these revisions to the certification and training accreditation requirements under chapter HFS 163, the Department seeks to meet the needs of all the parties affected by training or certification requirements under State, federal or local lead regulations. For each revision made by these rules, the Department considered the impact of the cost, the ease with which persons could comply, the ability to easily move to a higher level of certification, and the consistency with other regulations. In developing the low-risk worker and low-risk supervisor disciplines, the Department also considered potential requirements of EPA's renovation and remodeling regulations.

The Department divided required training into smaller independent modules to allow individuals to complete the least amount of training necessary to safely and accurately perform the lead-based paint activities for which the individual becomes certified. In addition, the Department:

- Divided lead hazard reduction activities into those that are low-risk and high-risk.
- Divided site management activities into project design and supervision of low-risk versus high-risk activities.
- Divided lead investigation activities conducted by lead risk assessors into sampling, inspection, and hazard investigation.
- Revised the definitions, training and certification requirements and accreditation standards to reflect these categories of activities.

**Publication Date: December 1, 2000**

**Effective Date: December 1, 2000**

**Expiration Date: April 30, 2001**

**Hearing Date: January 12, 16, 17, 18 and 19, 2001**

## Natural Resources – (3) (Fish, Game, etc., Chs. NR 1–)

1. Rules adopted creating **s. NR 1.445** and revising **ch. NR 51**, relating to the stewardship program.

### Exemption from finding of emergency

Emergency rules are necessary for the department to act as authorized under s. 23.0917, Stats., as created by 1999 Wis. Act 9. According to section 9136 (10g) of this Act, the department is not required to make a finding of emergency or provide evidence that promulgating this emergency rule is necessary for the preservation of public peace, health, safety or welfare. In addition, the emergency rules promulgated under this authority remain in effect until June 30, 2001, or until the date on which the corresponding permanent rules take effect, whichever is sooner.

### Analysis prepared by the Dept. of Natural Resources:

Statutory authority: ss. 227.11 (2), 227.24, Stats. and s. 9136 (10g), 1999 Wis. Act 9

Statutes interpreted: ss. 23.09 (19), (20) and (20m), 23.0917, 23.092, 23.094, 23.096, 23.098, 23.17, 23.175, 23.197, 23.27, 23.29, 23.295, 30.24 and 30.277, Stats.

The emergency rule:

- Implements a statutory change that requires the department to obtain county approval for acquisitions in counties where greater than 66% of the land is publicly owned.
- Moves three stewardship grant programs (local park aids, urban green space, and urban rivers) from ch. NR 50 to ch. NR 51. Improves grant administration by combining all stewardship grant programs into one chapter.
- Revises and expands program definitions, including definitions for nature-based outdoor recreation and middle kettle moraine, to clarify terms, reflect statutory changes and improve grant administration.
- Implements a statutory change that expands grant eligibility to include non 501 (c) (3) organizations.
- Reorganizes the structure of chapter 51 to incorporate new programs and local government programs.
- Implements statutory changes that identify priorities and expand the purposes for which nonprofit conservation organizations can receive grants. Makes minor revisions to improve grant administration.
- Makes minor revisions to bring the natural areas program in line with statutory changes.
- Establishes the administrative framework for the new bluff protection program. Defines "bluff" and sets program priorities.
- Makes minor revisions in the habitat areas and fisheries program to bring the program in line with statutory changes and improve grant administration.
- Establishes the administrative framework for acquisition of property by the department and nonprofit conservation organizations to preserve wild lakes. Defines "wild lake."
- Makes minor revisions to the stream bank program to bring the program in line with statutory changes.
- Makes minor revisions to the state trails program to improve grant administration.
- Implements a statutory change that makes nonprofit conservation organizations eligible for grants for state property development. Revises grant priorities and makes minor

revisions to improve administration of the state property development grant program.

- Establishes the administrative framework and sets priorities for the new Baraboo Hills subprogram.
- Clarifies and streamlines the administration of local assistance grants to governmental units.
- Clarifies and streamlines the administration of the local park aids, urban green space, and urban rivers grant programs which provide grant funds for governmental units and nonprofit conservation organizations. Implements statutory changes that require that all grants issued under these programs be for nature-based outdoor recreation. Lists eligible nature-based projects and sets grant priorities. Also implements a statutory change that allows "shoreline enhancements" to be funded under the urban rivers program and provides a list of typical shorelines enhancements that will qualify for the program.
- Establishes the administrative framework for the new acquisition of development rights program that provides grant funds to local governments and nonprofit conservation organizations. Sets priorities and identifies other factors that will be considered in awarding grants.
- Makes minor revisions to improve administration of the Heritage state park and forest trust program.

**Publication Date:** September 1, 2000

**Effective Date:** September 1, 2000

**Expiration Date:** See section 9136 (10g), 1999 Wis. Act 9

**Hearing Dates:** November 1 & 2, 2000

2. Rules adopted revising **ch. NR 47**, relating to the federal cost sharing program to suppress gypsy moths.

#### **Finding of emergency**

An emergency rule is necessary in order to make the cost shared gypsy moth suppression program available for aerial treatments in May 2001. Given the survival of caterpillars this summer, the department expects that populations of gypsy moth will be high enough in some localities in 2001 to necessitate suppression to protect tree health. In order to offer participation in the aerial treatment project and cost sharing from the U.S. Forest Service, it is necessary that preparatory work be done this fall and winter to define treatment blocks. When gypsy moth outbreaks occur, the public typically becomes concerned and looks for ways to reduce the population of gypsy moth to tolerable levels. Treatments to kill large numbers of the pest can be expensive, at times damaging to our native insects and other animals, or even dangerous to the landowner and others when pesticides are not used according to directions. The Department organized suppression program will provide the public with a safe, effective and affordable means to prevent damage to their trees.

**Publication Date:** November 10, 2000

**Effective Date:** November 10, 2000

**Expiration Date:** April 9, 2001

**Hearing Date:** January 17, 2001

**Extension Through:** June 7, 2001

3. Rules adopted revising **ch. NR 6** relating to defining unreasonable and improper speed to include operating a snowmobile at speeds greater than 50 MPH during the hours of darkness.

#### **Finding of emergency**

During the 1999–2000 snowmobile season conservation wardens investigated 38 fatal snowmobile accidents. Of these accidents, 10 deaths could be directly attributed to operation at excessive speed during the hours of darkness. Fourteen

other deaths could have been avoided if the operators had observed more prudent speeds, allowing them to avoid nighttime hazards. Potentially 24 of the 38 fatalities could have been avoided if the snowmobiler had been operating at slower speeds during the hours of darkness. Unless an immediate change is made in the snowmobile laws similar number of avoidable fatalities will occur during the 2000–2001 snowmobile season. Even greater numbers could occur if the early snows seen in November of 2000 remain, thereby extending the snowmobile season beyond that experienced in 1999–2000.

**Publication Date:** December 15, 2000

**Effective Date:** December 15, 2000

**Expiration Date:** May 14, 2001

**Hearing Date:** January 17, 2001

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### **Natural Resources** **(Environmental Protection – Investigation and Remediation, Chs. NR 700—)**

Rules adopted creating **ch. NR 754** relating to environmental insurance requirements for liability exemptions for voluntary remediation.

#### **Exemption from finding of emergency**

This rule is being promulgated as an emergency rule because 1999 Wis. Act 9 (Section 9136 (3)) required the adoption of this rule as an emergency rule (following the procedures in s. 227.24, Stats.). 1999 Wis. Act 9 stated that the department is not required to provide evidence that this rule is necessary for the preservation of the public peace, health, safety or welfare and without having to provide a finding of emergency.

#### **Analysis prepared by the Dept. of Natural Resources**

Statutory authority: ss. 227.11(2) and 227.24, Stats.

Statute interpreted: s. 292.15, Stats.

Section 292.15 (2) (ae) 3m., Stats., directs the department to promulgate rules to describe the requirements that must be met by a voluntary party seeking a Certificate of Completion, where natural attenuation is employed as the remedial action. The 1999–2001 State Budget (1999 Wisconsin Act 9) created s. 292.15 (2) (ae), Stats., which allows parties to use natural attenuation as a remedy to obtain the voluntary party liability exemption. This section includes a provision where the DNR may require a voluntary party to obtain environmental insurance if the voluntary party wants to receive a Certificate of Completion before the groundwater enforcement standards are met through natural attenuation. This rule requires that all voluntary parties who apply for the liability exemption under this section obtain environmental insurance to cover the cost to cleanup the environment if natural attenuation fails.

**Publication Date:** March 6, 2001

**Effective Date:** March 6, 2001

**Expiration Date:** August 3, 2001

**Hearing Date:** April 16, 2001

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### **Public Service Commission (3)**

1. Rules adopted creating **s. PSC 2.06**, relating to procedures for the confidential treatment of records.

#### **Exemption from finding of emergency**

At the direction of the Joint Committee for Review of Administrative Rules under s. 227.26 (2) (b), Stats., the Commission adopts a rule to create s. PSC 2.06, Wis. Adm.

Code, relating to procedures for the confidential treatment of records.

#### Analysis by the Public Service Commission

Statutory authority: ss. 196.02 (1) and (3), 227.11, 227.24 and 227.26, Stats.

Statutes interpreted: ss. 196.14, 196.72 and 196.795 (9), Stats.

On August 15, 2000, the Commission voted to promulgate administrative rules on requests for confidential handling of documents filed with the Commission. On September 20, 2000, the Joint Committee for Review of Administrative Rules directed the Commission to adopt a rule on the subject under s. 227.26 (2) (b), Stats. This rule creates a process for obtaining a designation of confidential status. Under the rule, a determination on whether information shall be treated confidentially shall be made at the time the information is given to the Commission. Under previous Commission procedures, if a person filing a document sought confidential treatment of information in the document, the filer could do so by identifying the grounds under which confidentiality could be granted. The Commission would accept the filing, but the acceptance did not constitute a determination that public access to the information would not be permitted. The Commission would determine if confidential status should be granted when a request for that information was made by another person.

Under this rule, a person who wishes the Commission to keep confidential information in the possession of the Commission, or requested by the Commission, must make an application for confidential status. The application must identify the information for which confidential treatment is sought and identify the authority under which confidential status should be granted. Within 21 days after receiving an application, the Commission may seek additional information from the applicant, if needed, to make a confidentiality determination. The applicant must respond within 30 days to the information request.

The Commission will make a determination on a confidentiality request within 30 days of receiving the additional information or within 30 days of the filing of the application if no additional information is needed. The determination will specify what, if any, information is given confidential treatment and the basis for that determination.

The Commission will give the applicant written notice of its determination. The Commission shall post all determinations regarding confidentiality on its website and may give other appropriate notice. If an applicant is authorized to file information confidentially in the context of a Commission proceeding, the applicant shall serve a copy of the determination on all persons listed on the service list for that proceeding.

**Publication Date:** October 23, 2000

**Effective Date:** October 23, 2000

**Expiration Date:** March 22, 2001

**Extension Through:** May 20, 2001

2. Rules adopted amending s. PSC 116.06 (1) and (2), relating to the triggering mechanism and the period of time in which fuel costs are estimated for purposes of seeking an emergency or extraordinary rate increase under s. PSC 116.06.

#### Finding of emergency

In order to preserve the health, safety, and welfare of Wisconsin residential, commercial and industrial ratepayers

it is necessary to amend s. PSC 116.06 (1) and (2), which would allow the Commission to grant a rate increase to an applicable Class A electric public utility based on estimated fuel cost for the year in which it is reasonably anticipated that the rate increase would go into effect. In granting the rate change the Commission must find, after a hearing confined solely to fuel costs, that the utility is eligible to seek an emergency or extraordinary rate increase under the current rule, an emergency or extraordinary increase in the cost of fuel exists, and the fuel cost increase will affect the utility's average yearly fuel costs for the year in which it is reasonably anticipated that the rate increase would go into effect so as to fall outside the established annual range for that year. This change would assist in implementing the rule at a time of volatile fuel costs.

**Publication Date:** December 28, 2000

**Effective Date:** December 28, 2000

**Expiration Date:** May 27, 2001

**Hearing Date:** January 23, 2001

3. Rules adopted creating ch. PSC 118, relating to the use of renewable resource credits.

#### Exemption from finding of emergency

1999 Wis. Act 9, section 9141 (2zt) (a) allows the Commission to promulgate an emergency rule creating an RRC trading program without making a finding of emergency.

#### Analysis prepared by the Public Service Commission

Statutory authority: ss. 196.02 (3), 196.378 (3), and 227.11, Stats.

Statute interpreted: s. 196.378, Stats.

1999 Wis. Act 9 created a renewable portfolio standard, requiring electric providers to meet certain minimum percentages of their retail sales with renewable resources. The minimum percentage gradually increases as follows:

Year 2001: 0.5 percent of total retail electric sales.

Year 2003: 0.85 percent of total retail electric sales.

Year 2005: 1.2 percent of total retail electric sales.

Year 2007: 1.55 percent of total retail electric sales.

Year 2009: 1.9 percent of total retail electric sales.

Year 2011: 2.2 percent of total retail electric sales.

In lieu of providing renewable energy to its customers, an electric provider can purchase a renewable resource credit. Under s. 196.378 (3) (a), Stats., the Commission must "promulgate rules that establish requirements for the use of a renewable resource credit, including the amount of a renewable resource credit." This rule addresses the requirements and procedures for the use of renewable resource credits, during the interim period before the date when an identical permanent rule takes effect.

This rule establishes a renewable resource credits trading program and describes the minimum criteria for renewable facilities to be eligible for creation of credits in the trading program. The rule also describes the duties of a program administrator, who supervises and implements the trading program. The program administrator is required to create a trading account for participating electric providers and to award renewable resource credits to the account of an electric provider of energy, from a certified renewable facility, that exceeds its minimum requirement. The program administrator must retire renewable resource credits upon their use to satisfy an electric provider's minimum renewable energy requirement.

**Publication Date:** April 7, 2001  
**Effective Date:** April 7, 2001  
**Expiration Date:** September 4, 2001

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### **Tobacco Control Board**

Rules adopted creating **ch. TCB 1**, relating to the administration and awarding of grants for tobacco control and establishing criteria for recipients of the grants.

#### **Finding of emergency**

The Wisconsin Tobacco Control Board finds that an emergency exists and that a rule is necessary for the immediate preservation of the health, safety and welfare of Wisconsin residents, particularly youth and current smokers. A statement of the facts constituting the emergency is as follows:

The health and fiscal impact of tobacco use are well documented. In Wisconsin alone, 7,800 deaths occur each year from tobacco-related disease. In addition, Wisconsin government, residents and health care providers pay over \$1.3 billion annually for health care costs associated with tobacco use.

While tobacco's effects are in individuals' futures, immediate action is required to reverse the recent trend toward rising youth addiction and resulting long-term negative health effects of tobacco use. According to the Centers for Disease Control and Prevention, over 3,000 youths begin smoking every day in the United States. In Wisconsin alone, there has been a 19 percent increase in high school tobacco use since 1993, with over 38 percent of high school youth smoking a cigarette in the last month. This increase in youth tobacco use is particularly threatening

since over 90 percent of current smokers began smoking before the age of 18. Of the current 1 million smokers in Wisconsin, half will die from tobacco-related diseases such as emphysema, lung cancer, heart disease and stroke.

In addition, tobacco use among specific populations continues to present an ongoing threat to the health of Wisconsin citizens. Wisconsin has a rate of tobacco use among pregnant women that is 30 percent higher than the national average. In addition, the national smoking rate among African-American youth doubled from 14 percent in 1993 to 28 percent in 1997. Finally, the 48% smoking rate of Medicaid recipients is twice the rate of the general population.

The ongoing and emerging health impacts and costs associated with tobacco use necessitate the immediate implementation of the comprehensive initiative to address tobacco use in Wisconsin.

The Board, through this order, is creating chapter TCB 1 relating to the Board's administering and awarding grants for tobacco control and establishing criteria for recipients of the grants. The rule is being promulgated under the authority of s. 255.15 (1m), Stats., for the purpose of establishing criteria, procedures, requirements and conditions for the award of project grants from the appropriation under s. 20.436 (1) (tc), Stats., to organizations that operate or propose to operate programs reducing tobacco use by preventing tobacco use, promoting tobacco use cessation and eliminating environmental tobacco smoke.

**Publication Date:** November 7, 2000  
**Effective Date:** November 7, 2000  
**Expiration Date:** April 6, 2001  
**Hearing Date:** January 10, 2001  
**Extension Through:** June 4, 2001

## Scope statements

### Health and Family Services

#### Subject

Ch. HFS 110 relating to licensing of ambulance service providers and emergency medical technicians (EMTs)—basic IV.

*Objective of the Rule.* To create and amend the chapter to include provisions necessary for the department to issue EMT—basic IV training permits.

#### Policy analysis

The department licenses emergency medical technicians (EMTs) at the basic and basic IV levels under s. 146.50, Stats., and ch. HFS 110, Wis. Adm. Code. The EMT—basic IV license level was added to ch. HFS 110 through a department rulemaking order that became effective on February 1, 2001. The addition of the EMT—basic licensing level was the result of evolving EMS system—wide changes. However, although the recently promulgated rulemaking order addressed the licensing, training and operational plans related to EMTs—basic IV, the rulemaking order neglected to address the department's issuance of training permits for EMTs—basic IV. A training permit is required at all other EMT levels and is necessary for students who are being trained to the EMT—basic IV level in order for them to get practical experience as part of their training course. The field experience treating patients allows the student to apply skills he or she has learned in class by treating a patient while supervised by an EMT licensed to at least the EMT—basic IV level. The proposed rules will correct the department's oversight of provisions that are necessary for the department to issue EMT—basic IV training permits.

#### Statutory Authority

Section 146.50 (5) (b) and (d) 1., Stats.

#### Staff Time Required

5 hours.

### Health and Family Services

#### Subject

Ch. HFS 47 relating to large family child care centers.

*Objective of the Rule.* To create a new category of care that would allow more children to be cared for in home—based child care facilities without the need to meet the licensing rules for larger group child care centers. It would also increase the ability of family child care providers to care for between 9 – 12 children in a home—based setting, thereby increasing the availability of child care within a geographic area.

#### Policy analysis

Sections 48.65, 48.66, 48.67, 48.68, 48.69, 48.70, 48.715 and 48.78, Stats., pertain to the Department's licensing and regulation of day care centers. Currently, the Department has established 2 chapters of administrative rules governing the licensing and operation of day care centers. The rules establish different requirements for day care centers depending on the number of children served. Chapter HFS 45, **Family** Day Care Centers for Children, applies to smaller day care centers, defined as “places where a person, other than a parent, relative or guardian, provides care and supervision for **4 to 8 children** under 7 years of age for less than 24 hours a day and for

compensation” [s. HFS 45.02 (4)]. Chapter HFS 46, **Group** Day Care Centers for Children, applies to places “where a person other than a relative or guardian provides care and supervision for **9 or more children** for less than 24 hours a day for compensation” [s. HFS 46.02 (13)]. Typically, Group Day Care Centers for Children are known as “day care centers,” “nursery schools,” “preschools,” “head start” or “school-age child care programs.”

Currently, day care centers wishing to care for more than 8 children must obtain a license to operate a Group Day Care Center for children under ch. HFS 46. Family child care providers (those providing care for 4 to 8 children) have asked the Department to consider another arrangement that would allow them to care for a few more children without having to meet the group licensing rules. The proposed new rules, chapter HFS 47, would be a melding of existing day care rules into a separate and distinct category of care that would contain elements of both the current ch. HFS 45 (family) and ch. HFS 46 (group) day care rules. Advocates of establishing “large family child care centers” under ch. HFS 47 maintain that the category's establishment will result in an increase in the availability and accessibility of both the total number of child care center licensees (those licensed under ch. HFS 45, 46 and 47) and the total number of child care “slots” or “positions” of those child care center licensees in a geographic area. In so doing, these proposed rules would respond to the increased child care needs created by W-2 and the continuing trend of parents being employed outside the home. The creation of the “large family child care” category of rules being proposed by the Department in this Statement of Scope was supported by the predecessor to the DWD Office of Child Care Council, known as the DHSS Day Care Advisory Committee. The Department proposes a maximum size of 12 children in each large family child care center because that number coincides with the maximum permissible size of child care centers eligible for reimbursement by the USDA Child and Adult Care Food Program.

Under current state law, large family child care licensees would not be entitled to the same exemptions that currently apply to family day care centers for 4 to 8 children. For example, under s. 66.1017, Stats., family day care centers for 4 through 8 children are exempt from local zoning requirements. However, the section 66.1017 statutory exemption from compliance with local zoning requirements would not extend to large family child care centers, making such centers subject to local zoning requirements. In addition, Wisconsin Department of Commerce building codes in chapters Comm 50 to 64 govern child care centers that either serve 9 or more children or that are located outside of a residence. The Dept. of Commerce rules would also apply to large family child care centers. In either case, a Department—certified agency or individual must periodically inspect the child care center for compliance with chapters Comm 50 to 64. Given the applicability of chapters Comm 50 to 64, the Department will consult with Department of Commerce representatives in developing the proposed ch. HFS 47 rules to help ensure that buildings used for large family child care centers are safe.

The Department expects that its establishing the licensure category of "large family child care centers" would have the following effects:

- It would allow child care providers to care for 9 – 12 children without requiring them to meet the ch. HFS 46, Group Day Care rules. Some smaller group child care centers would also fall into this intermediate category of care, thereby relaxing some of the licensing rules smaller group child care center providers are currently required to meet under ch. HFS 46.
- It would increase the variety of sites where large family child care could be provided. Some residences are sufficiently large to serve more than 8 children and other types of settings, such as store fronts, would also be candidates for housing large family child care centers.
- It will expand a given community's child care capacity.
- It may attract more individuals and agencies into providing child care.

#### **Statutory Authority**

Section 48.67, Stats.

#### **Staff Time Required**

The Department anticipates taking about 18 months to develop and promulgate the ch. HFS 47 rules. The Department estimates that approximately 2,000 hours of Department staff time will be necessary. Principal staffing will be provided by the Bureau of Regulation and Licensing that includes the child care program specialist, licensing staff and supervisors and input from representatives from the Department's Office of Legal Counsel.

The Department will form an advisory group with representation from the Department, child care providers, professional organizations, the child care resource and referral agency network, Wisconsin Child Care Improvement Project, advocacy organizations, local agencies, Department of Workforce Development, the Department of Commerce and others. In addition, as the Department develops sections of the rules, the sections would be shared with representative groups of child care providers for review and comment and with regional and statewide forums and groups representing numerous stakeholders. These opportunities for public input would precede and would be in addition to ch. 227, Stats., formal public hearings.

### **Natural Resources**

#### **Subject**

Clarify the definition of "indirect source" in s. NR 400.02 (85), Wis. Adm. Code, and update sections in chs. NR 438 and 484 to refer to a revised version of USEPA guidance document AP-42, Compilation of Air Pollutant Emission Factors, Volume I.

#### **Policy analysis**

The existing definition of "indirect source" needs to be clarified to distinguish between indirect emissions from roads and direct emissions from roads. Direct emissions from roads should be reported on the air program's emission inventory and should be subject to emission fees, while indirect emissions need not be reported. This rule change will affect any source that has a road that creates particulate emissions due to vehicular traffic. The reference to the AP-42 publication needs to be updated to reflect the most recently published supplements. This publication, which the air rules incorporate by reference, contains emission factors for various categories of air pollution sources.

The proposed rule clarifies a definition and updates sections of the administrative code that refer to a USEPA reference that is updated by USEPA annually.

#### **Statutory Authority**

Sections 227.11 (2) (a), 227.21 (2), 285.11 (1) and (6) and 285.17 (1) (a).

#### **Staff Time Required**

114 hours.

### **Regulation and Licensing**

#### **Subject**

Revision and clarification of administrative rules relating to the regulation of licensed and certified real estate appraisers.

Under federal law, the department is required to follow the guidelines set forth in the *Policy Statements Regarding State Certification and Licensing of Real Estate Appraisers* adopted by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council and the *Real Property Appraiser Qualification Criteria* established by the Appraiser Qualifications Board of the Appraisal Foundation. The proposed revisions will primarily incorporate changes relating to these guidelines.

*Objective of the Rule.* Clarify and update administrative rules. Recommended changes relate to:

- [1] revisions to the examination, education and experience requirements for licensed and certified real estate appraisers;
- [2] revisions to the rules for unprofessional conduct, and
- [3] clarity, grammar, punctuation, and use of plain language.

#### **Policy analysis**

Existing policies are contained in Chapters RL 80–87 and Appendix I, Wis. Admin. Code. The proposal would revise the following:

- [1] definitions;
- [2] examination, education and experience requirements;
- [3] rules of unprofessional conduct and,
- [4] Chapters RL 80–87 to make minor, technical and grammatical changes.

#### **Statutory Authority**

Sections 227.11 (2); 458.03 (1); 458.06; 458.08; 458.085, Stats.

Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule.

#### **Staff Time Required**

100 hours.

### **Rustic Roads**

#### **Subject**

*Objective of the Rule.* To amend Trans RR 1.04 (3), relating to qualifications for rustic road designation, by deleting a reference to ch. Trans 76, which was repealed in 1997, dealing with functional classification.

#### **Policy analysis**

The purpose of the Rustic Roads program is to identify, designate and preserve a system of lightly traveled roads for the enjoyment of the traveling public.

Trans RR 1.04 defines a set of criteria that a potential rustic road should have in order to be nominated. Criteria in this section include:

- (1) definition of "rustic" characteristics;

- (2) specification that the route be a low-volume road;
- (3) requirement that the road not be scheduled or anticipated for major improvement;
- (4) requirement that the proposed route currently does not have high density development along it;
- (5) a minimum length requirement of 2 miles, and
- (6) specifying that the land adjacent to the rustic road should have appropriate zoning so that its rustic character and low density development be preserved.

Trans RR 1.04 (3) is also part of the set of defining criteria, referencing the now repealed ch. Trans 76 on highway functional classification system. This chapter used a type of classification system that grouped streets and highways according to the type of service they provided, ranging from mobility to land access function. At the upper end of the system, principal arterials emphasize traffic mobility with long uninterrupted travel and at the lower end, local streets and roads emphasize access.

There is no definition for the term "arterial" or "collector" in state statutes or in the Administrative Code. The criteria in Trans RR 1.04 are considered to be sufficient for selection of roads appropriate for inclusion in the rustic roads program without the need to include functional classification as a factor.

Therefore, Trans RR 1.04 (3) will be amended to delete the reference to ch. Trans 76.

**Statutory Authority**

Section 83.42, Stats.

**Staff Time Required**

20 hours.

**Veterinary Examining Board****Subject**

Modification of the definition of "unprofessional conduct" of the practice of veterinary medicine.

**Policy analysis**

*Objective of the Rule.* To define as unprofessional conduct failure to notify clients that the person assisting the veterinarian is a veterinary student or unlicensed assistant.

This rule change will make it unprofessional conduct for a veterinarian to not inform a client that the person assisting them could be an unlicensed person.

**Statutory authority**

Sections 15.08 (5) (b), 227.11 (2) and 453.03 (1).

**Staff Time Required**

80 hours.

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## Submittal of rules to legislative council clearinghouse

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*Please check the Bulletin of Proceedings for further information on a particular rule.*

### Financial Institutions

#### Rule Submittal Date

On April 11, 2001, the Department of Financial Institutions submitted proposed rules to the Wisconsin Legislative Council Rules Clearinghouse.

#### Analysis

Pursuant to s. 227.14 (4m), notice is hereby provided of the Department of Financial Institutions submittal to the Legislative Council of proposed rules creating ss. DFI-SB 16.03 (7) and DFI-SL 16.05. The subject matter of the proposed rules relates to investments in development companies.

#### Agency Procedure for Promulgation

A hearing on these rules is scheduled for May 21, 2001.

#### Contact Information

The organizational unit within the Department of Financial Institutions that is primarily responsible for the promulgation of this rules is the Division of Savings Institutions. If you have questions, please contact Mark Schlei at (608) 267-1705.

### Insurance

#### Rule Submittal Date

On April 3, 2001, the Office of the Commissioner of Insurance is submitting a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

#### Analysis

These changes will affect ss. Ins 17.01 (3), 17.28 (6) and (6a), Wis. Adm. Code, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2001.

#### Agency Procedure for Promulgation

The date for the public hearing is May 16, 2001.

#### Contact Information

A copy of the proposed rule may be obtained from the OCI internet web site at: <http://www.state.wi.us/agencies/oci/ocirules.htm> or by contacting Tammi Kuhl at (608) 266-0110 in OCI Central Files. For additional information, please contact Alice M. Shuman-Johnson at 266-9892 or e-mail at [Alice.Shuman-Johnson@oci.state.wi.us](mailto:Alice.Shuman-Johnson@oci.state.wi.us) in the OCI Legal Unit.

### Natural Resources

#### Rule Submittal Date

On March 13, 2001, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

#### Analysis

The proposed rule affects ss. NR 1.212 and 1.213, relating to private forestry priorities for assistance.

#### Agency Procedure for Promulgation

The Department will schedule hearings at a later date.

#### Contact Information

If you have questions, please contact:  
Paul Pingrey  
Bureau of Forestry

### Public Instruction

#### Rule Submittal Date

On March 12, 2001, the Wisconsin Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

#### Analysis

The proposed rule amends s. PI 35.045, relating to building usage code under the Milwaukee Parental Choice Program.

#### Agency Procedure for Promulgation

A public hearing is scheduled for May 15, 2001.

#### Contact Information

If you have any questions regarding this rule, please contact:  
Tricia Collins  
Milwaukee Parental School Choice Consultant  
Telephone (608) 267-9248

### Transportation

#### Rule Submittal Date

On April 12, 2001, the Department of Transportation submitted a proposed rule to the Legislative Council Rules Clearinghouse.

#### Analysis

The proposed rule affects ch. Trans 276, relating to allowing the operation of double bottoms and certain other vehicles on specified highways.

#### Agency Procedure for Promulgation

A public hearing will be held on May 15, 2001. The organizational unit responsible for the promulgation of the proposed rule is the Division of Transportation Infrastructure Development, Bureau of Highway Operations.

#### Contact Information

If you have questions, please contact:  
Julie Johnson  
Telephone: (608) 267-3703

**Workforce Development****Rule Submittal Date**

On April 12, 2001, the Department of Workforce Development submitted proposed rules to the Legislative Council Rules Clearinghouse.

**Analysis**

The proposed rules affect ch. DWD 128, relating to the unemployment insurance requirement of ability to work and availability for work.

**Agency Procedure for Promulgation**

Public hearings will be held on May 21, 23, and 29, 2001. The organizational unit responsible for the promulgation of the proposed rules is the DWD Unemployment Insurance Division.

**Contact Information**

If you have questions, please contact:

Elaine Pridgen

Telephone: (608) 267-9403

Email: [pridgel@dwd.state.wi.us](mailto:pridgel@dwd.state.wi.us)

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## Rule-making notices

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### Notice of Hearing Financial Institutions (Savings Banks)

[CR 01-41]

Pursuant to s. 227.17, Stats., notice is hereby given that the Department of Financial Institutions, Division of Savings Institutions will hold a public hearing at the time and place indicated below to consider creating rules allowing savings banks to invest in small business investment companies located in this state.

#### Date, Time and Place of Hearing

**May 21, 2001** Tommy G. Thompson Conference Room  
Monday 5<sup>th</sup> Floor  
9:00 a.m. Department of Financial Institutions  
345 West Washington Avenue  
Madison, WI 53703

This facility is accessible to individuals with disabilities through levels A, B or the first floor lobby. If you require reasonable accommodation to access any meeting, please call Lisa Bauer at (608) 264-7877 or TDY (608) 266-8818 for the hearing impaired at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided by the Americans with Disabilities Act.

#### Text of the Proposed Rule

DFI—SB 16.03 (7) Investments in development companies. A savings and loan association is authorized to invest, in an amount not to exceed in the aggregate 5% of its capital, in shares of small business investment companies located in this state.

#### Analysis Prepared by Department of Financial Institutions, Division of Savings Institutions

Statutory authority: s. 214.03

To create s. DFI—SB 16.03 (7)

Summary: Currently state-chartered banks are authorized to invest, in an amount not to exceed in the aggregate 5% of its capital, in shares of small business investment companies located in this state. However, similar authorization does not exist for state-chartered savings banks. This rule authorizes state-chartered savings banks to similarly invest. This rule helps state-chartered savings banks to remain competitive with other financial institutions. Agency person to be contacted for substantive questions and responsible for the agency's internal processing: Mark Schlei, Deputy General Counsel, Department of Financial Institutions, Office of the Secretary, tel. (608) 267-1705.

#### Fiscal Estimate

There is no state fiscal effect, and there are no local government costs. No funding sources or ch. 20 appropriations are affected. There are no long-range fiscal implications.

### Initial Regulatory Flexibility Analysis:

The proposed rule will not have an effect on small businesses.

### Notice of Hearing Financial Institutions (Savings & Loan)

[CR 01-41]

Pursuant to s. 227.17, Stats., notice is hereby given that the Department of Financial Institutions, Division of Savings Institutions will hold a public hearing at the time and place indicated below to consider creating rules allowing savings and loan associations to invest in small business investment companies located in this state.

#### Date, Time and Place of Hearing

**May 21, 2001** Tommy G. Thompson Conference Room  
Monday 5<sup>th</sup> Floor  
9:00 a.m. Department of Financial Institutions  
345 West Washington Avenue  
Madison, WI 53703

This facility is accessible to individuals with disabilities through levels A, B or the first floor lobby. If you require reasonable accommodation to access any meeting, please call Lisa Bauer at (608) 264-7877 or TDY (608) 266-8818 for the hearing impaired at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided by the Americans with Disabilities Act.

#### Text of the Proposed Rule

DFI—SL 16.05 Investments in Development Companies. A savings and loan association is authorized to invest, in an amount not to exceed in the aggregate 5% of its capital, in shares of small business investment companies located in this state.

#### Analysis Prepared by Department of Financial Institutions, Division of Savings Institutions

Statutory authority: s. 215.135

To create s. DFI—SL 16.05

Summary: Currently state-chartered banks are authorized to invest, in an amount not to exceed in the aggregate 5% of its capital, in shares of small business investment companies located in this state. However, similar authorization does not exist for state-chartered savings and loan associations. This rule authorizes state-chartered savings and loan associations to similarly invest. This rule helps state-chartered savings and loan associations to remain competitive with other financial institutions. Agency person to be contacted for substantive questions and responsible for the agency's internal processing: Mark Schlei, Deputy General Counsel, Department of Financial Institutions, Office of the Secretary, tel. (608) 267-1705.

#### Fiscal Estimate

There is no state fiscal effect, and there are no local government costs. No funding sources or ch. 20

appropriations are affected. There are no long-range fiscal implications.

### Initial Regulatory Flexibility Analysis

The proposed rule will not have an effect on small businesses.

## Notice of Hearing

### Hearing and Speech Examining Board

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Hearing and Speech Examining Board in ss. 15.08 (5) (b), 227.11 (2) and 459.24, Stats., and interpreting ss. 459.22 (2) (e), 459.24 (6) (a) and (b); 459.26 (2)(a) and 459.34 (2), Stats., the Hearing and Speech Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal ss. HAS 6.02 (4o), (4r) and (8a), 6.06, 6.065 and 6.09; to amend ch. HAS 6 (title), 6.01, 6.02 (7), (8) and (9), 6.03 (5), 6.04 (5), 6.04 (8), 6.07 (1) (intro.) and (c), 6.08 (2) (b), (c) and (3); to repeal and recreate ss. HAS 6.03 (6), 6.04 (6) and (7), 6.05 and 6.08 (1) (e) 2.; and to create s. HAS 6.02 (1m), subchs. II, III and IV, relating to the licensure and regulation of speech-language pathologists, audiologists, temporary licensees and supervision of unlicensed individuals.

### Hearing Date, Time and Location

Date: **May 21, 2001**  
Time: 1:30 p.m.  
Location: 1400 East Washington Avenue  
179A  
Madison, Wisconsin

### Appearances at the Hearing:

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by June 4, 2001 to be included in the record of rule-making proceedings.

### Analysis Prepared by the Department of Regulation and Licensing

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 459.24.

Statutes interpreted: ss. 459.22 (2) (e), 459.24 (6) (a) and (b); 459.26 (2) (a) and 459.34 (2).

In this proposed rule-making order the Hearing and Speech Examining Board amends its rules relating to the licensure and regulation of speech-language pathologists, audiologists, temporary licensees and supervision of unlicensed individuals. Under the current rules, provisions relating to the licensure of speech-language pathologist, audiologist, temporary licensees and unlicensed individuals are placed throughout the chapter. The proposed rules organizes ch. HAS 6 into subchapters that relate specifically to the licensure and regulation of the various individuals. This change is being done primarily for purposes of clarity and placement in the code. With minor exceptions, all of the provisions contained in the current rules have been retained and placed under the relevant subchapter. Some minor and

technical changes are being made to the rules for purposes of clarity, grammar, form, punctuation and the use of plain language. The following is a summary of the changes made in each subchapter:

Subchapter I relates to the licensure and regulation of speech-language pathologists and audiologists. In this subchapter, the term "Au.D." is being defined to mean a doctor of audiology degree granted by a college or university approved by the board. In addition, the proposed rule clarifies that an Au.D. degree obtained from a college or university approved by the board is substantially equivalent to the examination, supervised clinical practicum, education and postgraduate clinical fellowship required for licensure as an audiologist.

Finally, the term "employee", is being omitted from the rules based upon a revision to s. 459.22 (2) (e), Stats., by Section 2925 of 1999 Wis. Act 9. Prior to the revision, the statute provided that an "employee" of a speech-language pathologist or audiologist was not required to obtained a license in order to "assist" in the practice of speech-language pathology or audiology. Since most individuals who assist in the practice of speech-language pathology and audiology are not employees of the speech-language pathologists and audiologists who supervise them, the statute was amended to change "employee" to "individual". The rules are being revised to reflect that change.

Subchapter II relates to the licensure and regulation of temporary licensees. In this subchapter, the terms "supervision" and "temporary licensee" are defined for purposes of clarity.

Subchapter III relates to supervision of unlicensed individuals by speech-language pathologists and audiologists. In this subchapter, the following terms are defined:

- 1) "assist in the practice of speech-language pathology"
- 2) "assist in the practice of audiology"
- 3) "direct supervision of unlicensed individuals"
- 4) "full-time equivalent individual"

In addition, the rules clarify the ratio that must be used by speech-language pathologists and audiologists when supervising unlicensed individuals.

Subchapter IV relates to the discipline of speech-language pathologists, audiologists and temporary licensees. In proposed s. HAS 6.18 (3) (p), the board clarifies that failure to record certain information in client records is one of the grounds for discipline. The language contained in this subchapter is found primarily in the current rules under s. HAS 6.09.

### Initial Regulatory Flexibility Analysis

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a).

### Fiscal Estimate

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.

2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

### Copies of Rule and Contact Information

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266-0495

### Notice of Hearing

#### Division of Hearings and Appeals

[CR 01-18]

NOTICE IS HEREBY GIVEN That pursuant to s. 301.035 (5), Stats., and interpreting ss. 302.113 (9) and 302.114 (9), Stats., the Division will hold a public hearing at the Division offices at 5005 University Avenue, Suite 201, Madison, Wisconsin, on the 14<sup>th</sup> Day of May, 2001 at 1:00 P.M. to consider the revision of rules relating to the revocation of extended supervision of persons serving a bifurcated sentence under the Truth-in-Sentencing provisions of 1997 Wis. Act 283.

### Analysis Prepared by the Division of Hearings and Appeals

These revisions are required as a result of the enactment of the Truth-in-Sentencing provisions of 1997 Wisconsin Act 283. That Act abolished parole for crimes committed on and after December 31, 1999 and replaced it with a Truth-in-Sentencing bifurcated sentence. The bifurcated sentence provisions require a judge to impose a sentence with two parts. The first part is a period of prison confinement. The second, called "extended supervision", is a period of community supervision administered by the Department of Corrections. Like parole, the extended supervision may be revoked if the offender violates the rules of supervision and the offender may be returned to prison. Unless waived by the offender, the offender is entitled to an administrative due process revocation hearing before the Division of Hearings and Appeals. The proposed rule changes will modify the existing corrections revocation provisions of chapter HA 2 to include the revocation of Truth-in-Sentencing extended supervision.

### Rule Text:

**Section 1.** HA 2.01 (1) and (2) are amended to read:

HA 2.01 (1) **AUTHORITY.** These rules are promulgated under the authority of s. 301.035 (5), Stats., and interpret ss. 302.11 (7), 302.113 (9) (a), 302.114 (9) (a), 938.357 (5), 973.09, 973.10, 973.155, 975.10 (2) and ch. 304 Stats.

(2) **SCOPE.** This chapter applies to corrections hearings under ss. 302.11 (7), 302.113 (9) (a), 302.114 (9) (a), 973.10, 975.10 (2), and ch. 304 Stats. The procedural rules of general application contained in this chapter also apply to youth aftercare revocation proceedings in any situation not specifically dealt with in ch. HSS-343 DOC 393.

**Section 2.** HA 2.02 (8) is amended to read:

HA 2.02 (8) "Revocation" means the removal of a client from probation or parole or youth aftercare supervision ~~probation, parole, extended supervision or youth aftercare supervision.~~

**SECTION 3.** HA 2.05 (1) (g) and (h) are created to read:

HA 2.05 (1) (g) In extended supervision cases under s. 302.113 (9) (a), Stats., the department's recommended period of incarceration.

(h) In extended supervision cases under s. 302.114 (9) (a), Stats., for persons serving a life sentence, the department's recommended period of time for which the person shall be

incarcerated before being eligible for release to extended supervision.

**SECTION 4.** HA 2.05 (7) (d) is amended to read:

HA 2.05 (7) (d) The administrative law judge shall issue a written decision based upon the evidence with findings of fact and conclusions of law stating the reasons to revoke or not revoke the client's ~~probation or parole~~ supervision.

**SECTION 5.** HA 2.05 (7) (f) and (g) are renumbered HA 2.05 (7) (h) and (i).

**SECTION 6.** HA 2.05 (7) (f) and (g) are created to read:

HA 2.05 (7) (f) If an administrative law judge decides to revoke a period of extended supervision under s. 302.113 (9) (a), Stats., the Administrative Law Judge shall include a determination of the period of incarceration taking into consideration the following criteria:

1. The nature and severity of the original offense;
2. The client's institutional conduct record;
3. The client's conduct and behavior while on parole;
4. The amount of incarceration that is necessary to protect the public from the risk of further criminal activity, to prevent the undue depreciation of the seriousness of the violation or to provide confined correctional treatment.

(g) If an administrative law judge decides to revoke a period of extended supervision for a person serving a life sentence under s. 302.114 (9) (a), Stats., the decision shall consider the criteria established in s. HA 2.05 (7) (f), and shall include a determination of the period of time for which the person shall be incarcerated before being eligible for release to extended supervision.

### Initial Regulatory Flexibility Analysis

The proposed revisions will have no impact on small business.

### Fiscal Estimate

There is no fiscal effect.

### Contact Information

The agency person responsible for the internal processing of these rules and the person to be contacted if there are any substantive questions on the rules is:

William J. Lundstrom, Assistant Administrator  
5005 Univ. Ave. #201  
Madison, WI 53705  
(608) 266-7668  
FAX: (608) 264-9885  
EMAIL: [william.lundstrom@dha.state.wi.us](mailto:william.lundstrom@dha.state.wi.us)

### Submission of Written Comments and Materials:

Written comments and materials in addition to or instead of verbal testimony at the public hearing may be submitted to the Division by May 18, 2001 at the above address.

### Notice of Hearing

#### Insurance

[CR 01-35]

Notice is hereby given that pursuant to the authority granted under s. 601.41(3), Stats., and the procedure set forth in under s. 227.18, Stats., OCI will hold a public hearing to consider the adoption of the attached proposed rulemaking order affecting ss. Ins 17.01(3), 17.28(6) and 17.28(6a), Wis. Adm. Code, relating to annual patients compensation fund fees and mediation fund fees for the fiscal year beginning July 1, 2001.

**Hearing Information**

Date: **May 16, 2001**  
Time: 9:00 a.m.,  
or as soon thereafter as the matter may be reached  
Place: Room 23, OCI, 121 East Wilson Street  
Madison, WI

Written comments on the proposed rule will be accepted into the record and will receive the same consideration as testimony presented at the hearing if they are received at OCI within 2 days following the date of the hearing. Written comments should be addressed to: Alice M. Shuman-Johnson, OCI, PO Box 7873, Madison WI 53707

**Summary of Proposed Rule & Fiscal Estimate**

For a summary of the rule see the analysis contained in the attached proposed rulemaking order. There will be no state or local government fiscal effect. The full text of the proposed changes and the fiscal estimate are attached to this Notice of Hearing.

**Analysis prepared by the Office of the Commissioner of Insurance**

Statutory authority: ss. 601.41 (3), 655.004, 655.27 (3) (b), and 655.61

Statute interpreted: s. 655.27 (3)

The commissioner of insurance, with the approval of the board of governors (board) of the patients compensation fund (fund), is required to establish by administrative rule the annual fees which participating health care providers must pay to the fund. This rule establishes those fees for the fiscal year beginning July 1, 2001. These fees represent a 20% decrease compared with fees paid for the 2000-01 fiscal year. The board approved these fees at its meeting on February 28, 2001, based on the recommendation of the board's actuarial and underwriting committee.

The board is also required to promulgate by rule the annual fees for the operation of the patients compensation mediation system, based on the recommendation of the director of state courts. This rule implements the director's funding level recommendation by establishing mediation panel fees for the next fiscal year at \$ 38.00 for physicians and \$2.00 per occupied bed for hospitals, representing no increase from 2000-01 fiscal year mediation panel fees.

**Initial Regulatory Flexibility Analysis**

This rule does not impose any additional requirements on small businesses.

**Contact Person**

A copy of the full text of the proposed rule changes and fiscal estimate may be obtained from the OCI internet WEB site at <http://www.state.wi.us/agencies/oci/ocirules.htm> or by contacting Tammi Kuhl, Services Section, Office of the Commissioner of Insurance, at (608) 266-0110 or at 121 East Wilson Street, PO Box 7873, Madison WI 53707-7873.

**Notice of Hearing****Medical Examining Board**  
[CR 01-31]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Medical Examining Board in ss. 15.08 (5) (b), 227.11 (2) and 448.40 (1), Stats., and interpreting s. 961.16 (5), Stats., the Medical Examining Board will hold a public hearing at the time and place indicated below to consider an order to amend s. Med 10.02 (2) (s) (intro.) and (zb) (intro.),

relating to prescribing or dispensing schedule II amphetamines or schedule II anorectics.

**Hearing Date, Time and Location**

Date: **May 16, 2001**  
Time: 8:30 A.M.  
Location: 1400 East Washington Avenue  
Room 179A  
Madison, Wisconsin

**Appearances at the Hearing:**

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by May 30, 2001 to be included in the record of rule-making proceedings.

**Analysis prepared by the Department of Regulation and Licensing**

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 448.40 (1).

Statute interpreted: s. 961.16 (5).

In this proposed rule-making order the Medical Examining Board clarifies the conflict between prohibiting the prescribing or dispensing of Schedule II amphetamines except for certain specified purposes, and permitting the prescribing or dispensing of Schedule II anorectics for weight control if certain conditions are met. The board eliminates the reference to Schedule II anorectics in s. Med 10.02 (2) (zb), in order to clarify the situation, because there is no Schedule II anorectic that is not an amphetamine or sympathomimetic amine. Stimulants currently listed in ch. 961, Stats., as Schedule II substances include amphetamine, methamphetamine, pentobarbital and methylphenidate. Amphetamine and methamphetamine are amphetamines, and pentobarbital is a sympathomimetic amine. Accordingly, methamphetamine (Ritalin®) is the only Schedule II stimulant which is not also an amphetamine or sympathomimetic amine, and methylphenidate is not classified as an anorectic. As to the question whether anorectic stimulant drugs currently listed in Schedule III or IV may be elevated to Schedule II, there are not any sympathomimetic amines so as to fall within the requirements of the amphetamine rule if raised to Schedule II.

**Text of Rule**

SECTION 1. Med 10.02 (2) (s) (intro.) and (zb) (intro.) are amended to read:

Med 10.02 (2) (s) (intro.) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any amphetamine, or sympathomimetic amine drug or compound designated as a schedule II controlled substance pursuant to the provisions of s. 961.16 (5), Stats., to or for any person except for any of the following:

(zb) (intro.) Prescribing, ordering, dispensing, administering, supplying, selling or giving any anorectic drug designated as a schedule II, III, IV or V controlled substance for the purpose of weight reduction or control in the treatment of obesity unless each of the following conditions is met:

**Fiscal Estimate**

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.

2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

#### **Initial Regulatory Flexibility Analysis**

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

#### **Copies of Rule and Contact Person**

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708, (608) 266-0495.

### **Notice of Hearing**

#### **Medical Examining Board**

[CR 01-32]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Medical Examining Board in ss. 15.08 (5) (b), 227.11 (2) and 448.05 (6), Stats., and interpreting s. 448.05 (6), Stats., the Medical Examining Board will hold a public hearing at the time and place indicated below to consider an order to amend s. Med 1.06 (3) (b), relating to the United States Medical Licensing Examination (USMLE).

#### **Hearing Date, Time and Location**

Date: **May 16, 2001**  
 Time: 8:30 A.M.  
 Location: 1400 East Washington Avenue  
 Room 179A  
 Madison, Wisconsin

#### **Appearances at the Hearing:**

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by May 30, 2001 to be included in the record of rule-making proceedings.

#### **Analysis prepared by the Department of Regulation and Licensing**

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 448.40 (1).

Statute interpreted: s. 448.05 (6).

Currently, s. Med 1.06 provides that applicants for a physician license must complete all three steps of the United States Medical Licensing Examination (USMLE) within seven years. This requirement is apparently extremely difficult or impossible for an applicant who is enrolled in a combined MD-PhD program, and the board amends its rules to eliminate the 7-year requirement for such applicants. This will allow for those applicants who are in an MD-PhD program who are not able to complete all three steps of the USMLE examination in the 7-year period to complete all three steps within nine years.

#### **Text of Rule**

SECTION 1. Med 1.06 (3) (b) is amended to read:

Med 1.06 (3) (b) Commencing January 1, 1994, the board accepts the 3-step USMLE sequence as its written or computer-based examination and administers step 3 of the sequence. Minimum standard passing scores for each step shall be not less than 75.0. Applicants who have completed a standard M.D. training program shall complete all 3 steps of the examination sequence within 7 years from the date upon which the applicant first passes a step, either step 1 or step 2. Applicants who have completed a combined M.D. and Ph.D. medical scientist training program shall complete all 3 steps of the examination sequence within 9 years from the date upon which the applicant first passes a step, either step 1 or step 2. Applicants who have passed a step may not repeat the step unless required to do so in order to comply with the 7-year or 9-year time limit. If the applicant fails to achieve a passing grade on any step, the applicant may apply for and be reexamined on only the step failed according to the reexamination provisions of s. Med 1.08 (1).

#### **Fiscal Estimate**

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.

2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

#### **Initial Regulatory Flexibility Analysis**

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

#### **Copies of Rule and Contact Person**

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266-0495.

### **Notice of Hearing**

#### **Natural Resources**

(Fish, Game, etc., Chs. NR 1—)

[CR 01-38]

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.024 and 227.11 (2) (a), Stats., interpreting ss. 29.024, 29.526, 29.531 and 29.533, Stats., the Department of Natural Resources will hold a public hearing on revisions to ch. NR 8, Wis. Adm. Code, relating to the issuance of DNR licenses and approvals. The proposed rule would expand the types of approvals agents would be authorized to issue through the Automated License Issuance System and modify the requirements for purchasing approvals for other persons, including allowing parents or guardians of children under the age of 18 to purchase approvals for their children.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses.

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

NOTICE IS HEREBY FURTHER GIVEN that the hearing will be held on:

**May 15, 2001, Tuesday at 1:00 p.m.**  
Room 717, GEF #2  
101 South Webster Street  
Madison, WI

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Joy Stewart at (608) 266-2159 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rule may be submitted to Ms. Joy Stewart, Bureau of Management and Budget, P.O. Box 7921, Madison, WI 53707 no later than May 17, 2001. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule and fiscal estimate may be obtained from Ms. Stewart.

### **Notice of Hearings**

#### **Natural Resources**

**(Fish, Game, etc., Chs. NR 1—)**

**[CR 01-37]**

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014 (1), 29.041, 29.519 (1) and 227.11 (2) (a), Stats., interpreting ss. 29.014 (1), 29.041 and 29.519 (1), Stats., the Department of Natural Resources will hold public hearings on the amendment of ss. NR 20.20 (73) (j) and 25.06 (2) (b) 1., Wis. Adm. Code, relating to yellow perch fishing in Green Bay. Estimates of yellow perch abundance and natural reproduction indicate a declining population and suggest that action is needed to protect the remaining yellow perch and maximize the likelihood of an early recovery. The proposed rule will limit the harvest of yellow perch from Green Bay and its tributaries. The sport fishing daily bag limit for yellow perch in Green Bay and its tributaries is reduced from 25 to 10. The total annual commercial harvest of Green Bay yellow perch is reduced from 200,000 pounds to 20,000 pounds.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., the proposed rule may have an impact on small businesses. The initial regulatory flexibility analysis is as follows:

- a. Types of small businesses: Commercial fishers of yellow perch
- b. Description of reporting and bookkeeping procedures required: No new procedures
- c. Description of professional skills required: No new skills required.

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

NOTICE IS HEREBY FURTHER GIVEN that the hearings will be held on:

**May 21, 2001** Council Chambers  
Monday at 3 p.m. Peshtigo Municipal Bldg.  
331 French Street,  
Peshtigo

**May 21, 2001** Bay Beach Wildlife Sanctuary  
Monday at 6:30 p.m. 1660 East Shore Drive  
Green Bay

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Bill Horns at (608) 266-8782 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rule may be submitted to Mr. Bill Horns, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707 no later than May 25, 2001. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule and fiscal estimate may be obtained from Mr. Horns.

### **Notice of Hearing**

#### **Natural Resources**

**(Fish, Game, etc., Chs. NR 1—)**

**[CR 01-36]**

NOTICE IS HEREBY GIVEN THAT pursuant to ss. 77.06 (2), 77.91 (1) and 227.11 (2) (a), Stats., interpreting ss. 77.06 (2) and 77.91 (1), Stats., the Department of Natural Resources will hold a public hearing on revisions to s. NR 46.30, Wis. Adm. Code, relating to administration of the Forest Crop Law and the Managed Forest Law. The proposed rule will make the annual stumpage rate adjustments as required in ss. 77.06 (2) and 77.91 (1), Stats., and to update the cordwood conversion tables for timber harvested on forest tax lands. The forest tax weight conversion table is being updated to bring it into alignment with the table in the DNR Timber Sale Handbook for sales on public lands. The new figures will more accurately reflect the true weights of cordwood being cut on tax law lands. The average weights will be reduced by approximately 7.6% for green wood. This would mean an increase in cordwood volumes being reported for those sales using weight to determine the volumes harvested.

For purposes of the Forest Crop Law and Managed Forest Law, this rule repeals and recreates s. NR 46.30 (2) to revise annual stumpage values used to calculate severance and yield taxes due on timber cut during the period from November 1, 2001 through October 31, 2002. The average price change for sawtimber is a .72% decrease in current rates. The pulpwood proposed prices are, on average, 6.98% higher compared to current prices.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., the proposed rule may have an impact on small businesses. The initial regulatory flexibility analysis is as follows:

- a. Types of small businesses affected: Small private forest landowners and forest industries enrolled under the Forest Crop Law and Managed Forest Law.
- b. Description of reporting and bookkeeping procedures required: No new procedures.

c. Description of professional skills required: No new skills.

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

NOTICE IS HEREBY FURTHER GIVEN that the hearing will be held on:

**May 11, 2001** Room 3, Marathon Co. Courthouse  
Friday at 11 a.m. 212 River Drive  
Wausau

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Ken Hujanen at (608) 266-3545 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rule may be submitted to Mr. Ken Hujanen, Bureau of Forestry, P.O. Box 7921, Madison, WI 53707 no later than May 18, 2001. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule and fiscal estimate may be obtained from Mr. Hujanen.

## Notice of Hearing

### Public Instruction

[CR 01-29]

NOTICE IS HEREBY GIVEN That pursuant to ss. 119.23 (7) (am) and (4) (b) 1. and 227.11 (2) (a), Stats., and interpreting s. 119.23, Stats., the Department of Public Instruction will hold a public hearing as follows to consider the amending of ch. PI 35, relating to a building usage charge under the Milwaukee Parental Choice Program.

The hearing will be held as follows:

<b>Date and Time</b>	<b>Location</b>
<b>May 15, 2001</b>	Milwaukee
4:00 – 6:00 p.m.	Milwaukee Area Technical College 700 W. State Street Room S120

The hearing site is fully accessible to people with disabilities. If you require reasonable accommodation to access the meeting, please call Tricia Collins, Milwaukee Parental Choice Administrator, at (608) 266-2853 or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

### Copies of Rule and Contact Person

The administrative rule is available on the internet at <http://www.dpi.state.wi.us/dpi/dfm/pb/choicechrg.html>. A copy of the proposed rule and the fiscal estimate may be obtained by sending an email request to [lori.slauson@dpi.state.wi.us](mailto:lori.slauson@dpi.state.wi.us) or by writing to:

Lori Slauson  
Administrative Rules and Federal Grants Coordinator  
Department of Public Instruction  
125 South Webster Street  
P.O. Box 7841  
Madison, WI 53707

Written comments on the proposed rules received by Ms. Slauson at the above address no later than May 21, 2001, will be given the same consideration as testimony presented at the hearing. Comments submitted via email will not be accepted as formal testimony.

### Analysis by the Department of Public Instruction

The proposed rules will provide an option for private schools participating in the Milwaukee Parental Choice Program to claim the cost for facilities provided by a related party. Because such costs are currently calculated in a variety of ways by participating private schools, this modification is needed for consistency. The building usage charge shall be charged annually at 10.5% of the appraised market value of the buildings, sites and improvements. If a private school chooses to use the building usage charge, the cost must be claimed on the financial information report that is submitted annually on September 1. Also, previous reports submitted for the 1998-1999, 1999-2000, and 2000-2001 school years must be amended to reflect the new cost calculation. A private school has until September 1, 2002, to claim a building usage charge.

The proposed rules will also delete the term "annually" when it requires a private school to "annually make an irrevocable election . . ." since it is not the intent nor current practice to make an irrevocable decision on an annual basis.

### Fiscal Estimate

The proposed rules will provide private schools participating in the Milwaukee Parental Choice Program with an option to claim the cost for facilities provided by a related party. The building usage charge shall be charged annually at 10.5% of the appraised market value of the buildings, sites and improvements.

In calculating per pupil costs, current rules allow private schools to either charge off expenditures or amortize expenditures related to buildings, sites and improvements owned or leased by the school. Currently, the rules do not provide for charging off or amortization of buildings, sites and improvements provided by a related party causing these schools to calculate these costs in a variety of ways. This modification will provide a consistent way for a private school to calculate costs to use a building provided by a related party.

For each pupil enrolled in a participating private school, the department pays an amount equal to the lesser of either:

- The private school's operating and debt service cost per pupil that is related to educational programming; or
- The amount paid per pupil in the previous school year plus the amount of the per pupil revenue limit increase provided to school districts in the current year (\$5,326 in FY01).

The rules will allow some participating private schools to claim a level of reimbursement closer to the \$5,326 amount per pupil, thereby causing a decrease in the amount of money returned by some schools to the department for deposit into the state general fund. The amount of money deposited to the general fund is indeterminable because it is not known how many private schools will claim a higher level of reimbursement. It is assumed the rules will not have a local fiscal effect and will not affect the calculation of general school aids.

**Initial Regulatory Flexibility Analysis**

The proposed rules are not anticipated to have a fiscal effect on small businesses as defined under s. 227.114 (1) (a), Stats.

**Notice of Hearing****Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board****[CR 01-26]**

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors in ss. 15.08 (5) (b), 227.11 (2) and 457.03, Stats., and interpreting ss. 457.03 and 457.12 (2) and (3), Stats., the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors will hold a public hearing at the time and place indicated below to consider an order to repeal s. SFC 12.02 (2) (b); to amend s. SFC 7.01 (1) (intro.), (a), (3) and (4), 12.02 (2) (intro.), (a) and (c) to (h), 13.01 (1), (a) 2., 3. and 4. and 20.02 (13); and to create s. SFC 14.01 (4), relating to conforming existing rules to present practices and to other rules.

**Hearing Date, Time and Location**

Date: **May 22, 2001**  
Time: 9:30 A.M.  
Location: 1400 East Washington Avenue  
Room 179A  
Madison, Wisconsin

**Appearances at the Hearing**

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by June 5, 2001 to be included in the record of rule-making proceedings.

**Analysis prepared by the Department of Regulation and Licensing**

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 457.03.

Statutes interpreted: ss. 457.03 and 457.12 (2) and (3).

In this proposed rule-making order the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors replaces the reference to the National Academy of Certified Mental Health Counselors in ss. SFC 7.01 (1) and 13.01 (intro.) with the change in the name of a professional association, the National Board for Certified Counselors. The next change is offered to conform one rule to the list of acceptable supervisors in another section, s. SFC 12.02 (2) (d). Semi-colons are removed and periods are added in s. SFC 12.02 for better style. The outdated provision relating to acceptable supervisors is repealed. Another change is to incorporate an informal interpretation which has been used by the board in assessing course equivalency. A provision is added to s. SFC 14.01, to allow an applicant to take up to 12 credit hours of courses outside of his or her master's program, which may include a supervised counseling practicum, to reach course equivalency. And

"providing psychotherapy" in s. SFC 20.02 (13) is removed as it may improperly limit its application.

There are no significant policy issues involved. The proposed changes are to conform the existing rules to present practices and to other rules.

**Text of Rule**

SECTION 1. SFC 7.01 (1) (intro.) and (a), (3) and (4) are amended to read:

SFC 7.01 Psychotherapeutic social work. (1) (intro.) A certified advanced practice social worker, a certified independent social worker, or a certified independent clinical social worker may not engage in psychotherapeutic social work unless he or she has completed 3,000 hours of supervised clinical practice in accordance with sub. (2) after receiving a master's degree, consisting of a minimum of one hour per week of face-to-face supervision during the 3,000 hour period by a person qualified under par. (a), if he or she is listed in the national registry of health care providers in clinical social work, national ~~academy of board for~~ certified ~~mental health~~ counselors, the national register of health services providers in psychology, or national registry of the American board of examiners in clinical social work. Supervision of the 3,000 hour period of clinical practice may be performed by any of the following:

(a) A social worker with a master's or doctoral degree from a graduate school of social work accredited by the council on social worker education, or a registered nurse with a master's or doctoral degree in psychiatric-mental health nursing or community mental health nursing from a graduate school of nursing accredited by the national league for nursing, if the social worker or registered nurse performing the supervision has completed a 3,000 hour period of supervised clinical practice, is listed in the national registry of health care providers in clinical social work or national association of social workers registry of clinical social workers, national ~~academy of board for~~ certified ~~mental health~~ counselors, the national register of health services providers in psychology, or national registry of the American board of examiners in clinical social work.

(3) A certified independent clinical social worker may engage in the independent unsupervised practice of psychotherapeutic social work when he or she has completed the 3,000 hour supervised clinical practice period, or is listed in the national registry of health care providers in clinical social work or national association of social workers register of clinical social workers or national ~~academy of board for~~ certified ~~mental health~~ counselors or the national register of health services providers in psychology, or national registry of the American board of examiners in clinical social work.

(4) A certified advanced practice social worker or a certified independent social worker may engage in the practice of psychotherapeutic social work when he or she has completed the 3,000 hour supervised clinical practice period, or is listed in the national registry of health care providers in clinical social work or national association of social workers register of clinical social workers or national ~~academy of board for~~ certified ~~mental health~~ counselors or the national register of health services providers in psychology, or national registry of the American board of examiners in clinical social work, but may do so only under the supervision of a person meeting the qualifications of sub. (1) (a) or (b).

SECTION 2. SFC 12.02 (2) (intro.) and (a) are amended to read:

SFC 12.02 (2) (intro.) Supervision of a period of supervised practice of professional counseling may be exercised by any of the following:

(a) A certified professional counselor;₂

SECTION 3. SFC 12.02 (2) (b) is repealed.

SECTION 4. SFC 12.02 (2) (c) to (h) are amended to read:

SFC 12.02 (2) (c) A certified independent clinical social worker;₂

(d) A certified marriage and family therapist;₂

(e) A licensed physician who has completed a residency in psychiatry;₂

(f) A licensed psychologist who is listed or eligible to be listed in the national register of health services providers in psychology;₂

(g) A registered nurse with a master's degree in psychiatric mental health nursing or community mental health nursing from a graduate school of nursing accredited by the national league for nursing, and who is listed or eligible to be listed in the national register of health services providers in psychology;₂

(h) Another qualified professional approved by the professional counseling counselors section in advance of the supervision of the practice of professional counseling if the professional counselors section determines that supervision by a certified professional counselor is unobtainable or unreasonably restrictive of the delivery of professional counseling services to a particular population, or unduly interferes with training professional counselors in providing services to a particular population;₂

SECTION 5. SFC 13.01 (1) is amended to read:

SFC 13.01 (1) A certified professional counselor may engage in psychotherapy only if he or she has completed 3,000 hours of supervised clinical practice, which means a minimum of one hour per week of face-to-face supervision during the 3,000 hour period by a person qualified under par. (a), or is listed in the national registry of health care providers in clinical social work, or national association of social workers register of clinical social workers or national ~~academy of board for~~ certified ~~mental health~~ counselors or the national register of health services providers in psychology, or national registry of the American board of examiners in clinical social work.

SECTION 6. SFC 13.01 (1) (a) 2., 3. and 4. are amended to read:

SFC 13.01 (1) (a) 2. A professional counselor with a master's or doctoral degree from a college or university accredited by its regional accrediting association, the commission for accreditation of counseling and related educational programs, or the council on rehabilitation education, if the professional counselor performing the supervision has completed a 3,000 hour period of supervised clinical practice or is listed in the national registry of health care providers in clinical social work or national association of social workers register of clinical social workers or national ~~academy of board for~~ certified ~~mental health~~ counselors or the national register of health services providers in psychology, or national registry of the American board of examiners in clinical social work.

3. A social worker with a master's or doctoral degree from a graduate school of social work accredited by the council on social worker education, if the social worker performing the supervision has completed a 3,000 hour period of supervised clinical practice or is listed in the national registry of health care providers in clinical social work or national association of social workers register of clinical social workers or national ~~academy of board for~~ certified ~~mental health~~ counselors or the national register of health services providers in psychology,

or national registry of the American board of examiners in clinical social work.

4. A registered nurse with a master's or doctoral degree in psychiatric-mental health nursing or community mental health nursing from a graduate school of nursing accredited by the national league for nursing, if the registered nurse performing the supervision has completed a 3,000 hour period of supervised clinical practice or is listed in the national registry of health care providers in clinical social work or national association of social workers registry of clinical social workers or national ~~academy of board for~~ certified ~~mental health~~ counselors or the national register of health services providers in psychology, or national registry of the American board of examiners in clinical social work.

SECTION 7. SFC 14.01 (4) is created to read:

SFC 14.01 (4) To reach course equivalency, an applicant may take up to 12 credit hours of courses, which may include a supervised counseling practicum, outside of his or her master's program.

SECTION 8. SFC 20.02 (13) is amended to read:

SFC 20.02 (13) Failing to avoid dual relationships or relationships that may impair the credentialed person's objectivity or create a conflict of interest. Dual relationships prohibited to credentialed persons ~~providing psychotherapy~~ include the credentialed person treating the credentialed person's employers, employees, supervisors, supervisees, close friends or relatives, and any other person with whom the credentialed person shares any important continuing relationship.

#### **Fiscal Estimate**

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.

2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

#### **Initial Regulatory Flexibility Analysis**

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

#### **Copies of Rule and Contact Person**

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266-0495.

#### **Notice of Hearing**

#### **Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board**

**[CR 01-27]**

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors in ss. 15.08 (5) (b) and 227.11 (2), Stats., and interpreting s. 457.13 (2), Stats., the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors will hold a public hearing at the time and place indicated below to consider an order to renumber s. SFC 11.015; and to create s. SFC 11.015 (2), relating to professional counselor training certificates.

**Hearing Date, Time and Location**

Date: **May 17, 2001**  
 Time: 10:00 A.M.  
 Location: 1400 East Washington Avenue  
 Room 179A  
 Madison, Wisconsin

**Appearances at the Hearing**

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by May 31, 2001 to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing

**Analysis**

Statutes authorizing promulgation: ss. 15.08 (5) (b) and 227.11 (2).

Statute interpreted: s. 457.13 (2).

In this proposed rule-making order the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors creates a rule that clarifies that a professional counselor training certificate is available only to persons during a period of supervised practice and the limited circumstances in which a professional counselor training certificate is available.

**Text of Rule**

SECTION 1. SFC 11.015 is renumbered SFC 11.015 (1).

SECTION 2. SFC 11.015 (2) is created to read:

SFC 11.015 (2) A professional counselor training certificate shall be valid during a period of supervised pre-certification practice. The training certificate shall expire after 24 months, or when the applicant obtains certification under s. 457.12, Stats., or at the end of the supervised practice, whichever occurs first. A professional counselor training certificate may not be renewed.

**Fiscal Estimate**

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.

2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

**Initial Regulatory Flexibility Analysis**

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a).

**Copies of Rule and Contact Person**

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266-0495.

**Notice of Hearing****Transportation**

**[CR 01-40]**

NOTICE IS HEREBY GIVEN that pursuant to ss. 85.16 (1) and 348.07 (4), Stats., interpreting s. 348.07 (4), Stats., the Department of Transportation will hold a public hearing at the following location to consider the amendment of ch. Trans 276, Wis. Adm. Code, relating to allowing the operation of double bottoms and certain other vehicles on certain specified highways:

**Tuesday, May 15, 2001**

Hill Farms State Transportation Building  
 4802 Sheboygan Avenue  
 Room 419  
 Madison, WI  
 10:00 AM

(Parking is available for persons with disabilities)

The public record on this proposed rule making will be held open until close of business on the date of the hearing to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such written comments should be submitted to Ashwani K. Sharma, Traffic Operations Engineer, Bureau of Highway Operations, Room 501, P. O. Box 7986, Madison, Wisconsin, 53707-7986.

**Analysis Prepared by the Wisconsin Department of Transportation**

Statutory authority: ss. 85.16(1) and 348.07(4).

Statute interpreted: s. 348.07(4).

**General Summary of Proposed Rule.**

This proposed rule amends Trans 276.07(10), Wisconsin Administrative Code, to add one segment of highway to the designated highway system established under s. 348.07(4), Stats. The actual highway segment that this proposed rule adds to the designated highway system is:

Hwy.	From	To
STH 48	STH 53 in Rice Lake	STH 40

The proposed rule text often achieves these objectives by consolidating individual segments into continuous segments with new end points. In order to determine the actual highway segment added, it is necessary to compare the combined old designations with the combined new designation.

The long trucks to which this proposed rule applies are those with 53-foot semitrailers, double bottoms and the vehicles which may legally operate on the federal National Network, but which exceed Wisconsin's regular limits on overall length. Generally, no person may operate any of the following vehicles on Wisconsin's highways without a permit: A single vehicle with an overall length in excess of 40 feet, a combination of vehicles with an overall length in excess of 65 feet, a semitrailer longer than 48 feet, an automobile haulaway longer than 66 feet plus allowed overhangs, or a double bottom. Certain exceptions are provided under s. 348.07(2), Stats., which implements provisions of the federal Surface Transportation Assistance Act in Wisconsin.

45-foot buses are allowed on the National Network and Interstate system by Federal law. Section 4006 (b) of the Intermodal surface Transportation Efficiency Act of 1991.

The effect of this proposed rule will be to extend the provisions of ss. 348.07 (2) (f), (fm), (gm) and (gr), and 348.08 (1) (e), Stats., to the highway segments listed above. As a result, vehicles which may legally operate on the

federal National Network in Wisconsin will also be allowed to operate on the newly-designated highways. Specifically, this means there will be no overall length limitation for a tractor-semitrailer combination, a double bottom or an automobile haulaway on the affected highway segments. There also will be no length limitation for a truck tractor or road tractor when operated in a tractor-semitrailer combination or as part of a double bottom or an automobile haulaway. Double bottoms will be allowed to operate on the affected highway segments provided neither trailer is longer than 28 feet, 6 inches. Semitrailers up to 53 feet long may also be operated on these highway segments provided the kingpin to rear axle distance does not exceed 43 feet. This distance is measured from the kingpin to the center of the rear axle or, if the semitrailer has a tandem axle, to a point midway between the first and last axles of the tandem. Otherwise, semitrailers, including semitrailers which are part of an automobile haulaway, are limited to 48 feet in length.

These vehicles and combinations are also allowed to operate on undesignated highways for a distance of 5 miles or less from the designated highway in order to reach fuel, food, maintenance, repair, rest, staging, terminal or vehicle assembly or points of loading or unloading.

### **Fiscal Impact**

The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, technical college district or sewerage district.

### **Initial Regulatory Flexibility Analysis**

The provisions of this proposed rule adding highway segments to the designated system have no direct adverse effect on small businesses, and may have a favorable effect on those small businesses which are shippers or carriers using the newly-designated routes.

## **Notice of Hearings**

### **Department of Workforce Development (Unemployment Insurance – Chs. DWD 100–150) [CR 01–39]**

NOTICE IS HEREBY GIVEN that pursuant to ss. 108.04 (2), 108.14 (2), and 227.11, Stats., the Department of Workforce Development proposes to hold three public hearings to consider the amendment of ss. DWD 128.01 and 128.02, relating to the unemployment insurance requirement of ability to work and availability for work.

### **Hearing Information:**

<b>May 21, 2001</b>	State Office Building, Room 45 (Basement Level)
Monday	819 N. 6 <sup>th</sup> Street
11:00–12:00	<b>Milwaukee</b>
<b>May 23, 2001</b>	GEF 1, Room 371
Wednesday	201 E. Washington Avenue
10:00–11:00	<b>Madison</b>
<b>May 29, 2001</b>	Portage Co. Public Library, Rotary Room
Tuesday	1325 Church Street
11:00–12:00	<b>Stevens Point</b>

Interested persons are invited to appear at the hearing and will be afforded the opportunity to make an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views, and suggested rewording in writing.

If you have special needs or circumstances regarding communication or accessibility at the hearing, please call (608) 267–9403 at least 10 days prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audiotape format will be made available on request to the fullest extent possible.

### **Analysis Prepared by the Department of Workforce Development**

Statutory authority: Sections 108.04 (2), 108.14 (2), and 227.11.

Statute interpreted: Section 108.04 (2).

Federal and state unemployment insurance law requires that a claimant may be eligible for benefits only if the claimant is able to work and available for work. Section DWD 128.02 provides a temporary grace period from the general able and available requirements in s. DWD 128.01 if the claimant has certain uncontrollable restrictions. Claimants are eligible for a grace period as designated in s. DWD 128.02 (2) if they have uncontrollable restrictions that limit them to less than 15% of suitable work, their previous employment was terminated for reasons unrelated to those restrictions, and they are able and available for work under the same conditions that applied to their most recent employment.

The department has never intended that s. DWD 128.02 mean that a claimant who was not able and available for any work would be eligible for UI. However, in light of a recent decision by the Labor and Industry Review Commission (LIRC) in *Vuttiphon Z. Honea v. Milwaukee Ballet Company, Inc.*, the federal Department of Labor has expressed concern that s. DWD 128.02 could be read to mean that Wisconsin was not following the federally-mandated able and available requirement for eligibility. The *Honea* decision suggests that if s. DWD 128.02 (1) (a) is to be interpreted as requiring a claimant to be available for at least some work, the rule language that currently says “less than 15% of the opportunities for suitable work” should read “less than 15% but more than 0% of the opportunities for suitable work.” This proposed rule makes that change in the general able and available requirement in s. DWD 128.01 and the criteria for a temporary grace period in s. DWD 128.02.

Also in response to Department of Labor concerns over the LIRC decision in the *Honea* case, the proposed rule clarifies that the grace period in s. DWD 128.02 does not apply to aliens who are not able and available for work because their authorized work has ended or their work authorization period has expired. There has been some confusion in situations where the authorized work has ended but the work authorization period is not expired. However, since federal immigration law provides that once the authorized work has ended the alien must depart the United States, these claimants cannot be considered able and available for work and are not eligible for unemployment insurance. The *Honea* decision is available on the LIRC web site at <http://www.dwd.state.wi.us/lirc/ucdecns/654.htm>.

The proposed rule also makes a technical correction to s. DWD 128.01 (2) (b). A recent amendment to s. DWD 128.02 (1) (a) added “psychological condition” to the description of uncontrollable restrictions that may make a claimant eligible for the grace period. This change was made to reflect court interpretations. The language in s. DWD 128.01 (2) (b) is intended to parallel the language in s. DWD 128.02 (1) (a) but the amendment was inadvertently not made in s. DWD 128.01 (2) (b). The proposed rule amends s. DWD 128.01 (2) (b) to include “psychological condition.”

In addition, obsolete references to ILHR are updated to DWD in the note following s. DWD 128.01.

**Rule Text**

SECTION 1. DWD 128.01 (2) (b), DWD 128.01 (note), and DWD 128.02 (1) (a) are amended to read:

DWD 128.01 (2) (b) The claimant's physical or psychological condition, or personal circumstances over which the claimant has no control limit the claimant to less than 15% but more than 0%, of the opportunities for suitable work, including all such jobs whether vacant or filled, in the claimant's labor market area; or

DWD 128.01 Note: Section ~~ILHR~~ DWD 128.01 (2) (a) applies to a claimant whose restrictions on availability for work are within his or her power to change or alter. School attendance is generally a controllable restriction and, therefore, "without good cause" unless the person is enrolled in an approved training program under s. 108.04 (16), Stats. The wage demand of a claimant is also considered a controllable restriction. A claimant obligated to care for minor children is expected to make arrangements which would permit the claimant to accept suitable work. Unwillingness or failure to make such arrangements are controllable restrictions and, normally, without good cause.

Section ~~ILHR~~ DWD 128.01 (2) (b) applies to a claimant whose physical condition or uncontrollable personal circumstances limit the opportunity for suitable work. A claimant may be severely limited in the type of work which he or she could perform because of illness, disability, injury or age, but still be able to perform at least 15% of the suitable jobs in the claimant's labor market area.

DWD 128.02 (1) (a) The claimant's physical or psychological condition, or personal circumstances over which the claimant has no control limit the claimant to less than 15% but more than 0%, of the opportunities for suitable work, as specified under s. DWD 128.01 (2) (b);

SECTION 2. DWD 128.02 (3) is created to read:

DWD 128.02(3) This section is not applicable to an alien whose authorized work has ended or whose authorization to work has expired, whichever is earlier.

**Initial Regulatory Flexibility Analysis**

The proposed rule does not affect small business.

**Fiscal Impact**

There is no fiscal impact.

**Contact Information**

For substantive questions concerning the proposed rule, contact Tom Smith, Research Attorney, UI Bureau of Legal Affairs, 266-9641.

Written comments on the proposed rules received at the following address no later than May 31, 2001, will be given the same consideration as testimony presented at the hearing.

Elaine Pridgen  
Office of Legal Counsel  
Dept. of Workforce Development  
P.O. Box 7946  
Madison, WI 53707-7946  
(608) 267-9403

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## Submission of proposed rules to the legislature

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*Please check the Bulletin of Proceedings for further information on a particular rule.*

### **Agriculture, Trade and Consumer Protection**

([CR 00-149](#))

Ch. ATCP 74 – Relating to fee reduction for cities and counties that license and inspect retail food establishments.

### **Agriculture, Trade and Consumer Protection**

([CR 00-183](#))

Ch. ATCP 97 – Relating to annual license fees for public warehouse keepers.

### **Natural Resources**

([CR 00-136](#))

Ch. NR 333 – Relating to dam design and construction standards and zoning downstream of dams.

### **Natural Resources**

([CR 00-177](#))

Ch. NR 47 – Relating to federal cost sharing program to suppress gypsy moths.

### **Natural Resources**

([CR 00-178](#))

Ch. NR 25 – Relating to licensing commercial fishers on Lake Michigan.

### **Pharmacy Examining Board**

([CR 00-165](#))

Ch. Phar 7 – Relating to transfer of prescription orders.

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## Rule orders filed with the revisor of statutes bureau

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*The following administrative rule orders have been filed with the Revisor of Statutes Bureau and are in the process of being published. The date assigned to each rule is the projected effective date. It is possible that the publication date of these rules could be changed. Contact the Revisor of Statutes Bureau at (608) 266-7275 for updated information on the effective dates for the listed rule orders.*

**Commerce**  
**(CR 00-115)**

An order revising ch. Comm 8 relating to mine, pits and quarries.  
Effective 6-1-01

**Commerce**  
**(CR 00-126)**

An order revising ch. Comm 5 relating to renewal of expired credentials.  
Effective 6-1-01

**Elections Board**  
**(CR 99-150)**

An order revising ch. ElBd 1 relating to the term "express advocacy" for campaign finance purposes.  
Effective 6-1-01

**Pharmacy Internship Board**  
**(CR 99-159)**

An order revising ch. Ph-Int 1 relating to pharmacy intern training.  
Effective 6-1-01

**Transportation (CR 01-001)**

A rule relating to a motor vehicle emissions inspection program.  
Effective 6-1-01

**Veterinary Examining Board**  
**(CR 00-144)**

An order relating to the application deadline date for the examination required for licensure as a veterinarian.  
Effective 6-1-01

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## Rules published with this register and final regulatory flexibility analyses

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*The following administrative rule orders have been adopted and published in the April 30, 2001 Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code and also to the subscribers of the specific affected Code.*

*For subscription information, contact Document Sales at (608) 266-3358.*

### **Agriculture, Trade and Consumer Protection (CR 00-119)**

An order relating to groundwater protection.

Effective 5-1-01

#### **Summary of final regulatory flexibility analysis**

Businesses Affected: The amendments to ch. ATCP 30 Appendix A will affect small businesses in Wisconsin. The greatest small business impact of the rule will be on users of atrazine — farmers who grow corn. The proposed prohibition area contains approximately 1,000 acres. Assuming that 50% of this land is in corn and that 50% of these acres are treated with atrazine, then 250 acres of corn will be affected. About three producers would be affected, depending on their corn acreage and their reliance on atrazine products. These producers are small businesses, as defined by s. 227.114 (1)(a), Stats. Secondary effects may be felt by distributors and applicators of atrazine pesticides, crop consultants and equipment dealers. Since the secondary effects relate to identifying and assisting farmers in implementing alternative weed control methods, these effects will most likely result in additional or replacement business and the impacts are not further discussed in this document.

Specific economic impacts of alternative pest control techniques are discussed in the environmental impact statement for this rule.

#### **Reporting, Recordkeeping and Other Procedures Required for Compliance:**

The maximum application rate for atrazine use in Wisconsin is based on soil texture. This may necessitate referring to a soil survey map or obtaining a soil test. While this activity is routine, documentation would need to be maintained to justify the selected application rate. A map delineating application areas must be prepared if the field is subdivided and variable application rates are used. This procedure is already required under the current atrazine rule.

All users of atrazine, including farmers, will need to maintain specific records for each application. This procedure is already required under the current atrazine rule.

Atrazine cannot be used in certain areas of the State where groundwater contamination exceeds the atrazine enforcement standard in s. NR 140.10 Wis. Adm. Code.

#### **Professional Skills Required to Comply:**

The rule affects how much atrazine can be applied and on which fields. Because overall use of atrazine will be reduced in the State, alternative weed control techniques may be needed in some situations. These techniques may include different crop rotations, reduced atrazine rates, either alone or in combination with other herbicides, or combinations of herbicides and mechanical weed control measures.

While alternative weed control techniques are available, adoption of these techniques on individual farms will in some cases require assistance. In the past this type of assistance has been provided by University Extension personnel and farm

chemical dealers. In recent years many farmers have been using crop consultants to scout fields, identify specific pest problems and recommend control measures. The department anticipates these three information sources will continue to be used as the primary source of information, both on whether atrazine can be used and which alternatives are likely to work for each situation.

### **Agriculture, Trade and Consumer Protection (CR 00-145)**

An order relating to importing bovine animals, goats and cervids from “non-modified accredited” states.

Effective 5-1-01

#### **Summary of final regulatory flexibility analysis**

This rule will affect small businesses that import bovine animals, goats or cervids into this state. It requires the operator of those businesses to either refrain from importing bovine animals, goats or cervids from states the United States department of agriculture has designated as tuberculosis non-modified accredited states, or to comply with the standards this rule establishes to assure that the animals that are imported are not infected with bovine tuberculosis.

At the present time, the USDA has only designated one state, Michigan, as non-modified accredited. If the small business operator imports bovine animals, goats or cervids from Michigan, the operator will need to assure that the animal originates from a herd which has tested negative for tuberculosis within the past 12 months (there is an exception if the animal being imported is a veal calf less than 30 days of age) and that the animal has tested negative within the past 60 days (90 days for cervids). This places a burden on the business operator but it does not completely prohibit import of animals from Michigan. The burden of assuring that the animals have been properly tested is minimal compared to the burden that would be experienced by Wisconsin’s animal agriculture industry if bovine tuberculosis is introduced to Wisconsin by an animal imported from a non-modified accredited state.

This rule requires persons, including small business operators, who import animals from non-modified accredited states to have the animals retested for tuberculosis after being imported. While these requirements add costs for the importer, the costs that would be incurred if infected animals are imported without these precautions are substantially higher. And, the importer has the ability to avoid these costs entirely by importing animals from other states of origin rather than from a non-modified accredited state.

### **Financial Institutions – Banking (CR 00-166)**

An order to repeal s. DFI-Bk 8.04 relating to stating name and location of office on bank checks.

Effective 5-1-01

**Summary:** This proposed repeal will not impact small business.

**Comments**

No comments were reported.

**Health and Family Services**  
(CR 00-134)

Chapter HFS 97 – relating to complaint procedures for inmates of the Wisconsin Resource Center  
Effective 5-1-01

**Summary of final regulatory flexibility analysis**

The rule changes will not affect small businesses as “small business” is defined in s. 227.114 (1) (a).

**Comments**

No comments were received.

**Health and Family Services**  
(CR 00-150)

Chapter HFS 79 – relating to administration of supplemental security income (SSI), state supplemental payments to low-income elderly and disabled residents of Wisconsin and their dependent children.  
Effective 5-1-01

**Summary of final regulatory flexibility analysis**

This rule affects the Department of Health and Family Services and the Department of Administration’s Division of Hearings and Appeals. The promulgation of ch. HFS 79 will not affect “small business” as defined in s. 227.114 (1) (a).

**Comments**

No comments were received.

**Health and Family Services**  
(CR 00-151)

Chapter HFS 133 – relating to home health licensure.  
Effective 5-1-01

**Summary of final regulatory flexibility analysis**

This rule affects the Department of Health and Family Services and the Department of Administration’s Division of Hearings and Appeals.

Based on 1998 reporting of gross patient revenue, 156 of 172 home health agencies met the definition of small business under s. 227.114 (1) (a). Under s. 227.19 (3) (e), the Department analyzed the effect of the proposed rule on these small businesses. To that end, the Department considered the information under s. 227.19 (3) (e) 1. to 6., Stats., in proposing these rules. The Department had the following conclusions:

1. The requirements the Department is filing are minimum standards needed to ensure the health, safety, and welfare of the patients being served by home health agencies regardless of an agency’s size. Therefore, it is not feasible to exempt or create less stringent requirements for home health agencies that meet the definition of small business in s. 227.114 (1) (a).

2. The Department cannot revise the rule to reflect comments it received from small businesses regarding the proposed licensure fee structure both because of the current inequity resulting from the current licensure fee structure and the Department’s urgent need to fund its home health agency regulatory activities.

The proposed rules will not require a small business to report any new information.

The Department’s proposed method of fee calculation will create an equitable and stable funding source to support the Department’s regulatory activities. Given that, and the fact that the Department considered the small business nature of many home health agencies in proposing its fee calculation methodology, the Department does not create exemptions or

alternatives for small businesses to its calculation of license fees.

In promulgating this rule, small businesses raised issues with the proposed rules regarding patient discharge procedures. In response, the Department modified its draft to:

- Allow appeal of a discharge, unless the discharge was ordered by the attending physician; and

- Allow the home health agency to distribute its patient discharge summary only if it receives a request to do so.

3. Two of the revisions will require small businesses to expend additional resources: a requirement that home health agencies provide written notification to patients before or at the time of discharge and a requirement that home health agencies create a discharge summary report at the time a patient is discharged. Written notification of discharge will require additional resources to generate and mail discharge notices to all patients. Creation of a discharge summary will require appropriately qualified staff to create the discharge summary. The estimated cost of these requirements is difficult to quantify as some home health agencies already create the discharge summary. The cost for both requirements will depend on the number of patients served by the home health agency.

4. The proposed rules will not require any further costs for requirements since many of the provisions incorporate existing practices established in statewide variance.

5. The Department does not anticipate any additional costs to administer the proposed rules.

6. There will be no impact on the public’s health, safety and welfare as the Department is not proposing to create less stringent requirements or exemptions from requirements of this rule for small businesses.

**Comments**

No comments were received.

**Pharmacy Examining Board**  
(CR 00-48)

An order to create s. Phar 7.015, relating to delegation of duties by a pharmacist.  
Effective 5-1-01

**Summary of final regulatory flexibility analysis**

These rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

**Pharmacy Examining Board**  
(CR 00-156)

An order to amend s. Phar 7.01 (3), relating to supervising pharmacy interns.  
Effective 5-1-01

**Summary of final regulatory flexibility analysis**

These rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

**Comments**

No comments were received.

**Public Instruction**  
(CR 00-83)

An order making several minor modifications to align s. PI 14.03, minimum standards for audit and standard school district audit contracts.  
Effective 5-1-01

**Summary of final regulatory flexibility analysis**

The rule changes will not affect “small business” as defined in s. 227.114 (1) (a), Stats.

**Comments**

No comments were received.

**Transportation  
(CR 00-152)**

A rule relating to outdoor advertising sign annual fees.  
Effective 5-1-01

**Summary of final regulatory flexibility analysis**

The Department expects that the fee schedule established in this rule revision will have a negligible adverse impact on small businesses that use outdoor advertising as a method of advertising. Small business that own signs will now be required to pay \$35 or \$50 each year for each sign they erect or maintain. Because the majority of small businesses typically own only two to six outdoor advertising signs, the annual impact is expected to be minimal. For those small businesses that are more reliant on outdoor advertising signs, the costs aspects of choosing this advertising medium will not be significantly impacted by the fees, which are relatively modest in relation to the cost of erecting and maintaining a sign or leasing sign space.

The annual sign fees that would be paid under this proposed rule by both small independent sign companies that own approximately 20-75 billboards and large sign companies that own hundreds of signs, are expected to be passed on to the advertisers. This new fee should not significantly affect the monthly lease rental rates charged by these companies for outdoor advertising and is not expected to have an effect on "small businesses" under s. 227.114, Stats.

These fees may have some impact on sign companies that fall within the definition of "small business" under s. 227.114, Stats., to the extent that these companies have entered into long term leases for sign space and are unable to pass through the cost to their customers until the lease is renewed. Industry testimony on this aspect of the rule, however, did not suggest that any sign companies would suffer economic hardship as a result of these fees.

Because the Department does not compile or maintain records reflecting the number of employees or annual income of sign companies, establishing less stringent requirements for sign companies that qualify as small businesses under s. 227.114(1)(a), Stats., is not feasible.

This rule making proposes to exempt signs under 8 square feet in area from an annual fee requirement. Also

exempted are public utility, public service, political, real estate, official notice, farm and agricultural test plot signs.

Applicants for sign permits will be generally be required to pay the one-time \$175 sign permit application fee. Exempted from this requirement are public utility, public service, real estate, farm, agricultural test plot, political, service club and religious notice and official signs. The Department has not collected sign permit application fees from these entities historically. The Department does not anticipate that the one-time \$175 application fee structure will adversely affect small businesses.

Because the rule application process and annual fee billing and payment processes are relatively straightforward and simple, because many exemptions from fee requirements exist, and because DOT district sign permit coordinators are available to assist small businesses in completing permit applications and determining whether a proposed sign site is acceptable under s. 84.30, Stats., the Department concluded further simplifying the permit process or creating different deadline dates for small businesses is unwarranted.

**Workforce Development  
(CR 00-108)**

Rules relating to the state directory of new hires.  
Effective 5-1-01

**Summary of final regulatory flexibility analysis**

The proposed rules have no significant impact on small businesses, as defined in s. 227.114 (1) (a), Stats, since the requirement of employers to file new hire reports is already mandated by federal and state statutes. Six of the items required to be reported are mandated by federal law. Additional items required by rule are "date of birth," "date of hire," and "state in which the employee will work, if other than Wisconsin." The department will waive the "date of birth" requirement if it determines that the employer is unable to obtain it. "Date of hire" and "state in which the employee will work, if other than Wisconsin" are requested only to further the goals of the statutes and are not required if the employer fulfills the new hire filing requirement by submitting a completed W-4 form. These W-4 forms are already required for all businesses with employees under the Internal Revenue Code and therefore do not impose additional paperwork.

**Comments**

There were no comments.

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## Sections affected by rule revisions and corrections

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The following administrative rule revisions and corrections have taken place in **April 2001**, and will be effective as indicated in the history note for each particular section. For additional information, contact the Revisor of Statutes Bureau at (608) 266-7275.

### Revisions

#### **Agriculture, Trade and Consumer Protection:**

##### **Ch. ATCP 11**

S. ATCP 11.01 (80p)  
 S. ATCP 11.02 (4) (a)  
 S. ATCP 11.11 (1) (a) and (5)  
 S. ATCP 11.51 (entire section)  
 S. ATCP 11.55 (5)  
 S. ATCP 11.56 (5)

S. HFS 133.10 (1)  
 S. HFS 133.14 (6)  
 S. HFS 133.20 (4)

#### **Pharmacy Examining Board:**

##### **Ch. Phar 7**

S. Phar 7.01 (3)  
 S. Phar 7.015 (entire section)

#### **Financial Institutions--Banking:**

##### **Ch. DFI-Bkg 8**

S. DFI-Bkg 8.04 (entire section)

#### **Public Instruction:**

##### **Ch. PI 14**

S. PI 14.02 (2) (g)  
 S. PI 14.03 (1) (b) and (e) and (2) (a) and (d)

#### **Health and Family Services:**

**(Community Services, Chs. HFS 30--)**

**Ch. HFS 79 (entire chapter)**

**Ch. HFS 97 (entire chapter)**

**(Health, Chs. HFS 110--)**

##### **Ch. HFS 133**

S. HFS 133.02 (5m), (6g), (6m), (8m) and (12m)  
 S. HFS 133.03 (3) (h), (4) (b), (c) and (d), (8) and (9)  
 S. HFS 133.04 (4)  
 S. HFS 133.06 (4) (d)  
 S. HFS 133.09 (3)

#### **Transportation:**

##### **Ch. Trans 201**

S. Trans 201.01 (entire section)  
 S. Trans 201.02 (intro.) and (4) to (13)  
 S. Trans 201.035 (entire section)  
 S. Trans 201.07 (1) and (3)  
 S. Trans 201.075 (entire section)  
 S. Trans 201.10 (2) (intro.)  
 S. Trans 201.13 (entire section)  
 S. Trans 201.19 (2) and (5)

#### **Workforce Development:**

**Ch. DWD 42 (entire chapter)**

### Editorial corrections

Corrections to code sections under the authority of s. 13.93 (2m) (b), Stats., are indicated in the following listing:

#### **Financial Institutions--Banking:**

##### **Ch. DFI-Bkg 8**

S. DFI-Bkg 8.01 (entire section) had corrections made under s. 13.93 (2m) (b) 7., Stats.  
 S. DFI-Bkg 8.02 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.  
 S. DFI-Bkg 8.10 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

#### **Health and Family Services:**

**(Management and Technology, etc., Chs. HFS 1--)**

##### **Ch. HFS 12**

S. HFS 12.03 (12) had a correction made under s. 13.93 (2m) (b) 7., Stats.

#### **Natural Resources:**

**(Environmental Protection--General,  
 Chs. NR 100--)**

##### **Ch. NR 140**

S. NR 140.05 (9) had a correction made under s. 13.93 (2m) (b) 7., Stats.

#### **Transportation:**

##### **Ch. Trans 201**

S. Trans 201.05 (2) (b) had a correction made under s. 13.93 (2m) (b) 1., Stats.  
 S. Trans 201.08 (3) had corrections made under s. 13.93 (2m) (b) 7., Stats.

**University of Wisconsin System:****Ch. UWS 4**

S. UWS 4.08 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. UWS 5**

S. UWS 5.13 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. UWS 11**

S. UWS 11.06 (1) (b) had a correction made under s. 13.93 (2m) (b) 7., Stats.  
S. UWS 11.10 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. UWS 12**

S. UWS 12.05 (2) (g) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. UWS 18**

S. UWS 18.02 (7) had a correction made under s. 13.93 (2m) (b) 7., Stats.  
S. UWS 18.06 (36) had a correction made under s. 13.93 (2m) (b) 7., Stats.  
S. UWS 18.10 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. UWS 19**

S. UWS 19.02 (2) (d) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Workforce Development:****(Labor Standards, Chs. DWD 270–279)****Ch. DWD 279**

S. DWD 279.002 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Errata**

Items reprinted to correct printing errors such as dropped copy (or other errors) are indicated in the following listing:

**Commerce:****(Plumbing, Chs. Comm 81–87)****Ch. Comm 84**

S. Comm 84.30 (Table 84.30–1) was reprinted to correct printing error.

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## Sections affected by revisor's corrections not published

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### Revisor's corrections under s. 13.93 (2m) (b), Stats., identified in this Wis. Adm. Register.

**Subscriber's note:** Please make corrections (manually) in your printed code. The affected sections are shown as corrected on the Revisor of Statutes Internet site, [Http://www.legis.state.wi.us/rsb/](http://www.legis.state.wi.us/rsb/), and on the WisLaw® CD-ROM. Printed code will be shown as corrected in its next printing.

Location of invalid cross-reference	Invalid cross-reference	Correction
HFS 78.03 (2) (a)	71.02 (2) (i)	71.01 (13)
HFS 83.03 (1) (b)	66.395 (3) (L)	66.1213 (4) (L)
HFS 83.03 (1) (b)	66.395	66.1213
HFS 83.03 (1) (b)	66.40 to 66.404	66.1201 to 66.1211
HFS 90.11 (6) (a) 4.	448.05 (5m) (a)	448.963 (2)
HFS 90.11 (6) (a) 4.	448.05 (5m) (b)	448.963 (3)
HFS 94.02 (8)	51.427	51.437
HFS 98.01 (intro.)	980.06 (2) (d) and 980.08 (6)	980.08 (6m)
HFS 98.03 (16)	ch. 161	ch. 961
HFS 98.03 (21)	980.06 (2) (d)	980.08 (6m)
HFS 98.03 (24)	301.45 (1)	301.45 (1g)
HFS 98.26 (3)	161.47	961.47
HFS 101.03 (6)	49.19 to 49.41	49.19
HFS 101.03 (11)	HFS 107.09 (3) (a)	HFS 107.09 (4) (a)
HFS 101.03 (169)	49.177	49.77
HFS 102.01 (7)	HSS 201.03 (6)	HFS 101.03 (22g)
HFS 102.04 (1)	49.50 (8)	Delete
HFS 103.065 (2)	49.45 (17), Stats.	49.45 (17), 1987 Stats.
HFS 103.065 (4) (c) 3.	49.12 (9)	49.95 (9)
HFS 105.39 (1)	340.01 (23) (g)	340.01 (23g)
HFS 108.03 (4)	59.07 (97)	59.53 (5)
HFS 114.04 (6)	20.435 (5) (er)	Note inserted: <b>Note:</b> 1997 Wis. Act 237 repealed s. 20.435 (5) (er), Stats.
HFS 116.03 (8)	253.12 (1) (e)	253.12 (1) (c)
HFS 116.03 (17)	253.12 (1) (g)	Note inserted: <b>Note:</b> 1999 Wis. Act 114 repealed s. 253.12 (1) (g), Stats.
HFS 119.12 (3) (d)	20.435 (5) (ah)	20.435 (4) (ah)
HFS 127.02 (3)	181.31 (1) (h)	181.0202 (2) (a)

Location of invalid cross-reference	Invalid cross-reference	Correction
HFS 127.07 (1)	HFS 127.15 to 127.24	HFS 127.16 to 127.24
HFS 135.07 (2)	69.18 (4) (a) to (f)	69.18 (4) (a)
HFS 145.01	252.10 (6) (b) and (f)	252.10 (6) (b)
HFS 147.01	20.435 (1) (cc)	20.435 (5) (cc)
HFS 147.03 (8)	49.14, 49.16, 49.171	49.70, 49.71, 49.72
HFS 147.03 (8)	58.06, 252.073, 252.076	Note inserted: <b>Note:</b> 1999 Wis. Act 9 repealed ss. 58.06, 252.073 and 252.076, Stats.
HFS 147.06 (6)	20.435 (1) (cc)	20.435 (5) (cc)
HFS 151.02 (1)	146.80	253.07 (1) (a)
HFS 151.02 (2)	146.80	253.07 (1) (b)
HFS 161.10 (12)	146.08 (10) (a)	255.08 (10) (a)
HFS 167.02	20.435 (1) (ds)	20.435 (5) (ds)
HFS 172.03 (12)	101.01 (2) (f)	101.01 (11)
HFS 172.03 (12)	101.01 (2) (g)	101.01 (12)
HFS 172.15 (4)	66.124	66.0417
HFS 173.12 (5)	66.124	66.0417
HFS 175.18 (4)	66.124	66.0417
HFS 178.17 (4)	66.124	66.0417
HFS 182.01	20.435 (1) (ef)	20.435 (5) (ef)
HFS 182.03 (5)	20.435 (1) (ef)	20.435 (5) (ef)
HFS 182.04 (intro.)	20.435 (1) (ef)	20.435 (5) (ef)
HFS 182.06 (5) (a)	20.435 (1) (ef)	20.435 (5) (ef)
HFS 195.03 (3)	HFS 145.03 (2)	HFS 145.03 (4)
HFS 195.12 (4)	66.124	66.0417
HFS 196.06 (4)	66.124	66.0417
HFS 197.11 (4)	66.124	66.0417
HSS 157.14 (2) (a), (b) (intro.) and (c)	140.54	254.35
NR 22.02 (4)	29.34	29.523
NR 22.02 (4)	29.343	29.526
NR 22.02 (4)	29.36	29.531
NR 22.02 (4)	29.37	29.533
NR 22.02 (8)	29.01 (3) (a)	29.001 (27) (a)
NR 22.02 (10)	29.01 (3) (a)	29.001 (27) (a)
NR 22.11 (2)	29.34	29.523
NR 22.11 (2)	29.343	29.526

Location of invalid cross-reference	Invalid cross-reference	Correction
NR 22.11 (2)	29.37	29.533
NR 22.11 (10)	29.34	29.523
NR 22.11 (10)	29.37	29.533
NR 22.13 (a)	29.095	29.624
NR 22.13 (a)	29.10	29.161
NR 22.13 (a)	29.11	29.204
NR 22.13 (a)	29.112	29.207
NR 22.13 (a)	29.147	29.231
NR 22.13 (a)	29.1475	29.235
NR 22.13 (a)	29.095	29.624
NR 22.13 (a)	29.14	29.228
NR 22.13 (a)	29.145	29.219
NR 22.13 (a)	29.146	29.193
NR 22.13 (a)	29.147	29.231
NR 22.13 (a)	29.1475	29.235
NR 22.13 (a)	29.34	29.523
NR 22.13 (a)	29.343	29.526
NR 22.13 (a)	29.344	29.529
NR 22.13 (b)	29.34	29.523
NR 22.13 (b)	29.343	29.526
NR 22.13 (b)	29.344	29.529
NR 22.13 (c)	29.34	29.523
NR 24.02 (intro.)	29.38 (2)	29.537 (2)
NR 24.02 (5)	29.01 (9)	29.001 (45)
NR 24.02 (8)	29.01 (11)	29.001 (63)
NR 24.02 (9)	29.01 (12)	29.001 (69)
NR 24.04 (2)	29.38 (3)	29.537 (3)
NR 24.04 (4)	29.38 (3)	29.537 (3)
NR 24.04 (4)	29.092 (7) (i) to (p)	Added the following note: <b>Note:</b> 1997 Wis. Act 248 repealed s. 29.092 (7), Stats.
NR 24.05	29.16 (2)	29.045 (2)
NR 24.07 (3)	29.38	29.537
NR 24.07 (4)	29.38 (9)	29.537 (9)
NR 24.08 (2)	29.38	29.537

Location of invalid cross-reference	Invalid cross-reference	Correction
NR 28.01 (intro.), NR 28.02, NR 28.03 (1) (a), (b) 2.,	29.547	29.611
NR 37.03 (12)	15.345 (6)	15.445 (3)
NR 50.21 (3) (c)	20.370 (6) (mm)	Added the following note: <b>Note:</b> 1997 Wis. Act 27 repealed s. 20.370 (6) (mm), Stats.
NR 51.65 (1) (c)	66.955, 69.96	23.235, 66.0407
NR 51.74 (6) (a)	20.370 (1) (kb)	20.370 (7) (fa)
NR 60.02 (2)	15.347 (8)	Added the following note: <b>Note:</b> 1997 Wis. Act 27 repealed s. 15.347 (8), Stats.
NR 65.03 (6)	340.01 (33)	Added the following note: <b>Note:</b> 1997 Wis. Act 243 repealed s. 340.01 (33), Stats.
NR 106.01	281.15 (1) (b)	281.15 (1)
NR 108.02 (9)	49.10 (12) (f) 1.	Added the following note: <b>Note:</b> 1985 Wis. Act 29 repealed s. 49.10, Stats.
NR 113.07 (1) (g)	146.20	281.48
NR 113.07 (2) (b) 2.	144.08	281.49
NR 113.10 (2) (g)	281.48 (6)	281.98
NR 113.14 (3)	281.48 (6)	281.98
NR 116.15 (1) (intro.)	59.97 (10)	59.69 (10)
NR 116.19 (1)	59.97 and 59.971	59.69 and 59.692
NR 116.19 (4) (intro.)	59.99	59.694
NR 116.21 (6) (b)	55.97 (3) and (4)	59.69 (3) and (4)
NR 118.06 (15)	59.97 (10)	59.69 (10)
NR 120.02 (22)	66.20, 66.26	200.01
NR 120.02 (22)	66.26	200.15
NR 120.02 (22)	66.88	200.21
NR 120.02 (22)	66.918	200.65
NR 120.16 (1) (b)	59.974	59.963
NR 120.18 (1) (c) (intro.)	281.65 (8) (h)	Added the following note: <b>Note:</b> 1997 Wis. Act 27 repealed s. 281.65 (8), Stats.
NR 120.18 (3) (intro.)	281.65 (8) (i), (j)	Added the following note: <b>Note:</b> 1997 Wis. Act 27 repealed s. 281.65 (8), Stats.
NR 121.01	144.025 (1) and (2)	281.11 to 281.15 and 281.17 to 281.20

Location of invalid cross-reference	Invalid cross-reference	Correction
NR 121.01	147.25	283.83
NR 121.05 (1) (c) 3. b.	66.945	66.0309
NR 121.06 (2) (a)	66.945	66.0309
NR 128.09 (3) (b) 1.	20.3780 (4) (dc)	Added the following note: <b>Note:</b> Section 20.370 (4) (dc) was renumbered 20.370 (4) (cb) by 1985 Wis. Act 29 and was subsequently repealed by 1989 Wis. Act 31.
NR 131.06 (3) (d)	144.836	294.43
NR 131.19 (5) (c) 3.	227.01 (2) (a)	227.01 (3) (a)
NR 132.13 (1)	193.43	293.43
NR 133.03 (11)	16.08 (1) (c) and (d)	196.497 (1) (c) and (d)
NR 133.09 (1)	16.08	196.497
NR 135.04 (18)	443.037	ch. 470
NR 142.02 (12)	66.072	66.0807
NR 146.02 (5)	162.02 (5)	280.01 (5)
NR 146.02 (9)	162.02 (6)	280.01 (6)
NR 146.02 (10)	162.02 (8)	280.01 (8)
NR 157.01	144.79	299.45
NR 157.02 (4)	144.79 (1) (a)	299.45 (1) (a)
NR 157.02 (5)	144.79 (1) (c)	299.45 (1) (c)
NR 157.02 (5)	144.79 (3) (b), (c)	299.45 (3) (b), (c)
NR 157.02 (5)	144.79 (7)	299.45 (7)
NR 157.02 (6)	147.015 (1)	283.01 (1)
NR 160.01	144.24	281.57
NR 165.04 (1) (c) 3.	66.30	66.0301 or 66.0303
NR 167.03 (5)	289.02 (24)	289.01 (24)
NR 167.09 (3)	281.50 (7)	281.60 (7)
NR 169.09 (2)	292.65 (6)	Added the following note: <b>Note:</b> 1999 Wis. Act 9 repealed s. 292.65 (6), Stats.
NR 172.01	144.405 (5)	285.31 (5)
NR 172.01	144.405 (3), (4)	285.31 (3), (4)
NR 172.02	144.405 (5)	285.31 (5)
NR 172.02	144.405 (5)	285.31 (5)
NR 172.05 (1)	144.405 (5) (c)	285.31 (5) (c)
NR 172.06 (4) (a)	144.405	285.31

Location of invalid cross-reference	Invalid cross-reference	Correction
NR 182.07 (1) (a)	29.415	29.604
NR 182.075 (2) (a)	196.01 (1)	196.01 (1) (d)
NR 182.17 (10) (c)	227.07	227.44
NR 186.01	144.781 to 144.784, 144.797, 144.799	287.25
NR 186.03 (19)	140.52	254.31
NR 186.05	144.781 to 144.784, 144.797, 144.799	287.25
NR 186.06 (1)	144.01 (4m)	289.01 (11)
NR 186.06 (1)	144.61 (5)	291.01 (7)
NR 186.06 (1)	140.52 (10)	254.31 (10)
NR 186.06 (1)	140.52 (3)	254.31 (1)
NR 186.06 (1)	140.52 (11)	254.31 (11)
NR 186.08 (2) (e)	144.48	287.15
NR 186.08 (2) (e)	144.796	repealed
NR 186.08 (2) (f) 3.	144.794	287.13
NR 186.09 (5) (e)	144.782 (4)	Added the following note: <b>Note:</b> 1985 Wis. Act 120 repealed s. 144.782, Stats.
NR 186.09 (6) (c)	144.799	287.25
NR 186.11 (4) (b)	144.782	repealed
NR 186.11 (4) (b)	144.792	287.05
NR 186.11 (5) (e)	144.792	287.05
NR 186.11 (5) (f)	144.799	287.25
NR 187.01	144.75	299.41
NR 187.03 (4)	144.61	291.01 (7)
NR 187.03 (6)	144.01 (6)	291.01 (12)
NR 191.02	66.299 (1) (a)	66.0131 (1) (a)
NR 191.03 (9)	66.299 (1) (a)	66.0131 (1) (a)
NR 191.06 (2) (a) (intro.)	66.299 (1) (a)	66.0131 (1) (a)
NR 191.07 (1)	281.69 (4)	281.71
NR 192.03 (5)	66.299 (1) (a)	66.0131 (1) (a)
NR 195.02 (1)	66.299 (1) (a)	66.0131 (1) (a)
NR 195.03 (7)	23.096 (1) (a)	23.0955 (1)
NR 195.03 (15)	66.299 (1) (a)	66.0131 (1) (a)
NR 205.03 (35)	101.01 (2)	101.01 (12)

Location of invalid cross-reference	Invalid cross-reference	Correction
NR 214.03 (16)	281.01 (2)	280.01 (2)
NR 214.06 (2) (c)	283.09	283.31
NR 302.04 (4) (intro.)	30.12 (2) (d)	30.12 (3) (a)
NR 305.02	30.15 (2)	deleted
NR 322.01 (1)	144.01 (3)	283.01 (6m)
NR 322.08 (1) (d)	29.175	29.039
NR 322.08 (1) (d)	29.415	29.604
NR 322.09 (1) (g)	29.415	29.604
NR 322.08 (6)	144.01 (3)	283.01 (6m)
NR 325.13	30.03 (1)	deleted
NR 326.03 (6)	29.01 (4)	29.001 (63)
NR 327.01 (1)	29.415 (4)	29.604 (4)
NR 327.01 (1)	30.12 (2) (a)	30.12 (2)
NR 327.01 (1)	30.61 (5) (b)	30.61 (6) (a)
NR 327.01 (1)	144.26	281.31
NR 327.07 (1)	144.26	281.31
NR 340.06	144.01 (3)	283.01 (6m)
NR 346.09	144.01	291.01 (12)
NR 347.01 (1)	144.04	281.41
NR 347.01 (1)	144.43 to 144.47	ch. 289
NR 347.01 (1)	144.60 to 144.74	ch. 291
NR 347.03 (16)	144.61 (5)	291.01 (7)
NR 347.03 (21)	144.79 (1) (a)	299.45 (1) (a)
NR 347.04 (1) (b)	144.44	ch. 289
NR 347.04 (1) (d)	144.025	281.11 to 281.22
NR 347.04 (1) (d)	147.01	283.001
NR 347.04 (1) (f)	144.04	281.41
NR 347.04 (1) (g)	144.64	subch. IV of ch. 291
NR 347.04 (1) (g)	144.79	299.45
NR 347.08 (4) (b)	147.21	283.91
NR 347.08 (4) (c)	144.47	289.97
NR 347.08 (4) (c)	144.99	299.97
NR 347.08 (4) (d)	144.73	291.95
NR 347.08 (4) (d)	144.74	291.97
NR 500.02 (1)	291.01 (5m)	291.01 (8)

Location of invalid cross-reference	Invalid cross-reference	Correction
NR 500.03 (23)	289.41 (1) (a)	779.41 (1) (am)
NR 503.10 (5) (d)	289.91 (2) (e)	289.91
NR 504.02 (2)	281.04	281.41
NR 506.07 (1) (q)	290.01 (18)	289.01 (24)
NR 506.095 (5)	287.11 (7)	777.11 (2p)
NR 506.095 (6)	287.11 (2m) (d)	777.11 (2m)
NR 512.17	289.29 (1) (d) 4.	289.29 (1) (d)
NR 520.06 (6) (b)	289.41 (8) or (9)	289.41 (9)
NR 520.14 (2)	20.370 (2) (mq) and (ms)	20.370 (2) (mq)
NR 520.14 (2)	20.445 (1) (q)	20.143 (3) (q)
NR 542.02	287.17	Added the following note: <b>Note:</b> 1995 Wis. Act 227 repealed s. 287.17, Stats.
NR 543.01	287.03 (1) (b)	159.03 Added the following note: <b>Note:</b> 1993 Wis. Act 75 repealed s. 159.03, Stats.
NR 543.02	560.08 (2) (km)	Added the following note: <b>Note:</b> 1993 Wis. Act 75 repealed s. 560.08 (2) (km), Stats.
NR 543.04 (1)	287.03 (1) (b) 1. to 3.	159.03 (1) (b) 1. to 3. Added the following note: <b>Note:</b> 1993 Wis. Act 75 repealed s. 159.03, Stats.
NR 544.03 (8)	287.12 (3)	Added the following note: <b>Note:</b> 1997 Wis. Act 27 repealed s. 287.12, Stats.
NR 544.03 (16)	287.12 (1) (a)	Added the following note: <b>Note:</b> 1997 Wis. Act 27 repealed s. 287.12, Stats.
NR 544.03 (17)	287.12 (1) (b)	Added the following note: <b>Note:</b> 1997 Wis. Act 27 repealed s. 287.12, Stats.
NR 544.17 (2) (b)	287.12	Added the following note: <b>Note:</b> 1997 Wis. Act 27 repealed s. 287.12, Stats.
NR 548.07	287.03 (1) (b)	159.03 (1) (b) Added the following note: <b>Note:</b> 1993 Wis. Act 75 repealed s. 159.03, Stats.
NR 555.01	287.17	Added the following note: <b>Note:</b> 1997 Wis. Act 27 repealed s. 287.12, Stats.

Location of invalid cross-reference	Invalid cross-reference	Correction
NR 555.03 (8)	287.17	Added the following note: <b>Note:</b> 1997 Wis. Act 27 repealed s. 287.12, Stats.
NR 555.04 (1) (intro.)	20.370 (2) (dj)	Added the following note: <b>Note:</b> 1997 Wis. Act 27 repealed s. 20.370 (2) (dj), Stats.
NR 555.07 (2)	287.17 (5)	Added the following note: <b>Note:</b> 1995 Wis. Act 227 repealed s. 287.17, Stats.
NR 600.03 (221)	291.31 (1) (d)	291.37 (1) (d)
NR 620.15 (5) (f) 4.	144.69	291.91 (2)
NR 685.05 (10) (d) (intro.)	59.575	59.43
NR 714.01	144.442	292.31
NR 714.01	144.431 (1) (a) and (b)	289.06 (1) (a) and (b)
NR 714.01	144.76	292.11
NR 714.01	144.765	292.15
NR 714.01	144.77	292.41
NR 714.02	144.442	292.31
NR 714.02	144.76	292.11
NR 714.02	144.765	292.15
NR 714.05 (1) (intro.)	144.442	292.31
NR 714.05 (1) (a)	144.442	292.31
NR 714.05 (1) (b)	144.442 (4) (a)	292.31 (1) (a)
NR 714.05 (1) (b)	144.442 (4) (c) 4.	292.31 (1) (c) 4.
NR 714.05 (1) (c)	144.442	292.31
NR 714.05 (1) (c)	144.76	292.11
NR 714.05 (1) (d)	144.442	292.31
NR 714.05 (1) (d)	144.76	292.11
NR 738.01	144.442	292.31
NR 738.01	144.76	292.11
NR 738.01	144.442 (6)	292.31 (3)
NR 738.01	144.76 (7)	292.11 (7)
NR 738.02	144.442 (6)	292.31 (3)
NR 738.02	144.76 (7)	292.11 (7)
NR 738.02	144.442	292.31
NR 738.02	144.76	292.11
NR 738.04 (2)	144.442	292.31

Location of invalid cross-reference	Invalid cross-reference	Correction
NR 738.04 (2)	144.76	292.11
NR 738.04 (3) (b)	144.95	299.11
NR 738.045 (3)	144.442	292.31
NR 738.045 (3)	144.76	292.11
NR 738.08 (6)	144.442	292.31
NR 738.08 (6)	144.76	292.11
NR 738.08 (8)	144.442 (9)	292.31 (8)
NR 738.08 (8)	144.76 (3)	292.11 (3)
NR 750.05 (2) (a) 1.	144.765	292.15
NR 750.05 (2) (a) 2.	144.765 (2) (a)	292.15 (2) (a)
NR 811.02 (3)	144.04	281.41
NR 811.02 (27)	162.02 (5)	280.01 (7)
NR 845.06 (1) (c) 2. a.	66.122 and 66.123	66.0119

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## Executive orders

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**The following are recent Executive Orders issued by the Governor.**

**Executive Order 2.** Relating to a proclamation that the flag of the United States and the flag of the State of Wisconsin be flown at half-staff as a mark of respect for Specialist Jason D.

Wildfong of the United States Army who lost his life in a training accident in Kuwait.

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## Public notices

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### Health and Family Services

(Medical Reimbursement of Nursing Homes)

Publication of Final Rate Methodologies and Justifications

State of Wisconsin Medicaid Nursing Facility Payment Plan: FY 00-01

On May 14, 2000 the Department of Health and Family Services published a public notice in the *Wisconsin Administrative Register* outlining changes to be implemented effective July 1, 2000 in the Wisconsin Medicaid State Plan. The public notice included proposed rate methodologies, and their justifications, for nursing facility services under the Wisconsin Medicaid Program. The May 14, 2000 public notice was published in compliance with federal Medicaid requirements set forth at 42 U.S.C. § 1396a(a)(13)(A)(i) and 42 CFR § 447.205.

Following publication of the May 14, 2000 public notice, in compliance with 42 U.S.C. § 1396a(a)(13)(A)(ii), providers, beneficiaries and their representatives and other concerned Wisconsin residents were given a reasonable opportunity for review and comment on the proposed rate methodologies and justifications. In response to the public notice, comments were received by the Department of Health and Family Services. In particular, comments from the Wisconsin nursing home industry raised concerns regarding the adequacy of the rates that would result from the proposed methodologies to maintain access to nursing home care for Medicaid recipients. In addition to these comments, questions were received from federal Health Care Financing Administration (HCFA) specifically related to the section of the state plan which addressed special allowances for facilities operated by local units of government.

In response to these concerns, the Department of Health and Family Services has developed final rate methodologies and their justifications. By this Public Notice, the Department is publishing those final rate methodologies and justifications, in compliance with 42 U.S.C. § 1396a(a)(13)(A)(iii). The final rate methodologies redefine the manner in which county funds are used in the Medicaid program and update the special allowances made to nursing facilities operated by local units of government, in order to address the concerns raised both by the industry and by HCFA.

Copies of the final rate methodologies and justifications may be obtained free of charge by writing to:

Division of Health Care Financing  
Attention: Nursing Home Medicaid Payment Plan  
P.O. Box 309  
Madison, WI 53701-0309  
or by faxing:  
James Cobb at (608) 264-7720

The final rate methodologies and justifications may be reviewed at the main office at any county department of social services or human services.

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